

John A. Richards, ISB #10670  
Kayleen R. Richter, ISB #11258  
Idaho Department of Lands  
300 N. 6<sup>th</sup> St., Suite 103  
Boise, ID 83702  
(208) 334-0200  
[jrichards@idl.idaho.gov](mailto:jrichards@idl.idaho.gov)  
[krichter@idl.idaho.gov](mailto:krichter@idl.idaho.gov)

*Attorneys for the Idaho Department of Lands*

## BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of  
Cascade Exploration, LLC for an Order  
establishing a Spacing Unit consisting  
of 239.15 net acres on lands situated in  
Section 25, Township 5 North, Range 4  
West, Canyon County Idaho.

AGENCY Case No. CC-2025-OGR-01-003

OAH Case No. 25-320-OG-02

### IDAHO DEPARTMENT OF LANDS' PREHEARING STATEMENT

The Idaho Department of Lands (“IDL”), by and through its counsel of record, Kayleen Richter, submits the following Prehearing Statement in accordance with the *Scheduling Order* dated July 28, 2025. This matter is scheduled for a contested case hearing on August 28, 2025, at 1:30 p.m. MDT located at the College of Western Idaho’s Nampa Micron Education Center. IDL concurrently submits its disclosure of witnesses, its exhibit list, and its proposed exhibits for hearing.

## I. LEGAL BACKGROUND

In the Oil and Gas Conservation Act, the Idaho Legislature proclaimed:

It is declared to be in the public interest to foster, encourage and promote the development, production and utilization of natural resources of oil and gas in the state of Idaho in such a manner as will prevent waste; to provide for uniformity and consistency in the regulation of the production of oil and gas throughout the state of Idaho; to authorize and to provide for the operations and development of oil and gas properties in such a manner that a greater ultimate recovery of oil and gas may be obtained and that the correlative rights of all owners be fully protected[...] in order that the greatest possible economic recovery of oil and gas may be obtained within the state to the end that the land owners, the royalty owners, the producers and the general public may realize and enjoy the greatest possible good from these vital natural resources.

Idaho Code § 47-311. To further this public interest, the legislature stated: “It is the intent of the legislature to occupy the field of the regulation of oil and gas exploration and production...” Idaho

Code § 47-314(8). Gas is defined as “natural gas, which is a mixture of hydrocarbons and varying quantities of non-hydrocarbons that exist either in the gaseous phase or in solution with crude oil in natural underground reservoirs.” Idaho Code § 47-310(14). Exploration is defined as “activities related to the various geological and geophysical methods used to detect and determine the existence and extent of hydrocarbon deposits. The activities related to the search for oil and gas include without limitation aerial, geological and geophysical surveys and studies, seismic work, core drilling and the drilling of test wells.” Idaho Code § 47-310(12).

In this application, Cascade seeks to explore the existence and extent of geologic hydrogen by drilling a stratigraphic test well.<sup>1</sup> Pure hydrogen is considered a non-hydrocarbon gas, however, natural reservoirs of geologic hydrogen may contain trace quantities of hydrocarbons.<sup>2</sup> While existing statutes and rules in Idaho do not specifically address geologic hydrogen exploration or stratigraphic wells, the exploration and production of geologic hydrogen is likely similar to that of oil and gas. For example, in a hearing before the U.S. Senate Committee on Energy and Natural Resources on the “opportunities and challenges of developing geologic hydrogen,” Senator Heinrich of New Mexico asked Pete Johnson, CEO and Founder of Koloma, how analogous geologic hydrogen production is to geothermal production or oil and gas production. Mr. Johnson replied:

Koloma right now is focused on finding reservoirs that are naturally filled with hydrogen. And to talk about what production would look like on that, it would be a series of wells that look very similar to the wells that we drill for water, geothermal power, oil, and gas, up to wellheads. That hydrogen would then be gathered into a central purification facility, much like natural gas is. The hydrogen would be further purified and then sold to an ammonia plant or a, you know, SAF plant or something like that. So, pretty similar to what we see in today’s energy industry.

Opportunities and Challenges Associated with Developing Geologic Hydrogen in the U.S.:  
Hearing Before the S. Comm. on Energy and Nat. Res., 118th Cong. 32 (2024),

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<sup>1</sup> According to the United States Geological Survey, geologic hydrogen, “also known as natural hydrogen, is hydrogen gas that is naturally found below the surface of the Earth. Unlike hydrogen produced through industrial processes, geologic hydrogen is sourced by and stored in rocks in the ground, similar to traditional petroleum resources.” *What is geologic hydrogen?* USGS (August 14, 2025), <https://www.usgs.gov/faqs/what-geologic-hydrogen#news>.

<sup>2</sup> See ESTHER WAGNER, UNIVERSITY OF WYOMING SCHOOL OF ENERGY RESOURCES, WYOMING LEASING & PERMITTING RULES & REGULATIONS FOR NATURAL HYDROGEN EXPLORATION & PRODUCTION 3 (Issue Snapshot 2025), [https://www.uwyo.edu/ser/\\_files/docs/research/publications/cerpa-hydrogenleasing-snapshot.pdf](https://www.uwyo.edu/ser/_files/docs/research/publications/cerpa-hydrogenleasing-snapshot.pdf).

<https://www.congress.gov/118/chrg/CHRG-118shrg55886/CHRG-118shrg55886.pdf>. Therefore, to explore geologic hydrogen in Idaho one must comply with the statutory and regulatory requirements applicable to the exploration of oil and gas—including the establishment of a spacing unit.

**A. Procedural requirements for an application to establish a spacing unit.**

Idaho Code § 47-328(3) provides procedural requirements for an application to establish a spacing unit including to whom and how the applicant must provide notice of the application and who may raise objections or responses to the application. An applicant must, within 7 days of filing the application, “send a copy of the application and supporting documents to all known and located uncommitted mineral interest owners, all working interest owners within the proposed spacing unit, and the respective city or county where the proposed unit is located.” Idaho Code § 47-328(3)(b). Such notice must also include the prospective hearing date on the application. *Id.*

Once an application has been filed, “[o]nly an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file at least fourteen (14) days before the hearing date provided in the notice.” *Id.* An owner is defined as “the person who has the right to drill into and produce from a pool and to appropriate the oil and gas that he produces therefrom[.]” Idaho Code § 47-310(27). Uncommitted owner is further defined as “an owner who is not leased or otherwise contractually obligated to the operator.” Idaho Code § 47-310(35).

**B. Substantive requirements for establishing a spacing unit.**

Pursuant to the Idaho Oil and Gas Conservation Act, the Idaho Oil and Gas Conservation Commission (“OGCC”), through IDL as its administrative instrumentality, has the authority and duty to “regulate the exploration for and production of oil and gas, to prevent waste of oil and gas, [and] to protect correlative rights.” Idaho Code §§ 47-314(6), 47-315(1). Prevention of waste is paramount under the Act. Idaho Code § 47-315(1). As it relates to gas production, waste is defined as “production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil and gas that might ultimately be produced[.]” Idaho

Code § 47-310(36)(a). A correlative right is defined as “the opportunity of each owner in a pool to produce his just and equitable share of oil and gas in a pool without waste.” Idaho Code § 47-310(8).

Along with this general authority, the OGCC has the specific authority to regulate the spacing and location of oil and gas wells. Idaho Code § 47-315(6)(c). Establishing spacing units is an integral component of oil and gas regulation, as it is used to prevent the drilling of unnecessary wells, assist in the prevention of waste, and protect correlative rights. Idaho Code § 47-317(1) (listing the bases for which a spacing unit or units may be established). Spacing curbs economic waste by preventing the expense of drilling unnecessary wells and curbs physical waste by preventing adverse changes to reservoir dynamics caused by excessive rates of withdrawal from multiple wells. WILLIAMS & MEYERS, *MANUAL OF OIL & GAS TERMS* 1135–37 (15th ed. 2012). *See also* Robert E. Hardwicke, *Oil Well Spacing Regulations and Protection of Property Rights in Texas*, 31 Tex. L. Rev. 99, 111 (1952); Special Study Comm. & Legal Advisory Comm. on Well Spacing & Allocation of Prod., American Petroleum Institute, *Progress Report on Standards of Allocation of Oil Production Within Pools and Among Pools* 27–30 (1942).

Spacing units are defined in reference to subsurface reserves of oil or gas referred to as “pools.” *See* Idaho Code § 47-310(29); *see also* Idaho Code § 47-317(1)–(2). A pool is defined as “an underground reservoir containing a common accumulation of oil or gas, or both.” Idaho Code § 47-310(29). Additionally, “each zone of a structure that is completely separated from any other zone in the same structure is a pool.” *Id.* A spacing unit, in turn, must be “the area that can efficiently and economically be drained by one (1) well for the orderly development of the pool.” Idaho Code § 47-317(2). In the absence of a spacing order to the contrary, the statutory default size for a gas well spacing unit is 640 acres. Idaho Code § 47-317(3)(b). However, a spacing unit may deviate from the statutory default if evidence supports an alternative. In that case, an order establishing a spacing unit must “specify the location, size, and shape of the unit, which, in the opinion of the department, shall result in the efficient and economical development of the pool as a whole.” Idaho Code § 47-317(2). The location, size, and shape of a spacing unit must be

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described using the public land survey system. *Id.*, c.f. Idaho Code § 47-317(4)(c) (allowing an operator to request an amendment to the size, shape, or location of a spacing unit).

To summarize and paraphrase, an appropriate spacing unit should typically be an area of land that, based on the evidence presented, will be sufficient for one well to efficiently and economically drain oil or gas from an identifiable underground pool. As one oil and gas law treatise describes it, the process of establishing a spacing unit “relates solely to physical concerns about efficient production; it is a determination that is based primarily on engineering and geological facts[.]” KRAMER & MARTIN, *THE LAW OF POOLING AND UNITIZATION*, § 5.03 (3d ed. 2016).

## II. FACTUAL BACKGROUND

On June 30, 2025, Cascade Exploration, LLC (“Cascade”) applied to IDL for an order establishing a spacing unit consisting of a 239.15 net acre tract described in Exhibit A to the application, located in Section 25, Township 5 North, Range 4 West, Canyon County Idaho. Upon receipt of Cascade’s application, IDL published notice of the application on its website: <https://ogcc.idaho.gov/administrative-hearings/>. On July 8, 2025, IDL responded to Cascade’s application for spacing. *Final Order Referring Matter to the Office of Administrative Hearings*, Ex. 2. In IDL’s response, IDL requested Cascade be prepared to provide additional information “related to the proposed well, such as location, proposed total depth (PTD), and construction type (vertical, deviated or horizontal)” to clarify certain parts of the application as submitted. *Id.* IDL also requested Cascade submit the Notice of Service list for the application “including addresses of noticed parties, copies of the certified mail receipts, and copies of any Affidavit of Publication for published public notices as required by Idaho Code § 47-328(3)(b).” *Id.*

Cascade has not submitted certified mailing receipts to IDL showing that it sent a copy of the application materials and notice of the prospective hearing date to uncommitted owners within the proposed spacing unit and to “the respective city or county where the proposed unit is located.” Idaho Code § 47-328(3)(b). Although, Exhibit C to the application indicates that there is only one mineral owner in the proposed unit—Marchbanks Properties—and the mineral owner is leased. *Application*, 6. Accordingly, there appears to be no uncommitted owners within the proposed

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spacing unit entitled to receive certified mailing of the application. However, IDL has not yet received certified mailing receipts from Cascade with respect to the City of Caldwell or Canyon County. At hearing, Cascade should provide evidence that the city or county received adequate notice of the application. Finally, no owners have objected to Cascade's spacing application.

On July 22, 2025, the parties attended a scheduling conference and agreed to a hearing date as well as deadlines for prehearing disclosures and witness and exhibit lists. The Hearing Officer issued a *Scheduling Order* on July 28, 2025, setting a prehearing conference date of August 21, 2025, and a hearing and public comment date of August 28, 2025. While the parties discussed the potential for this matter to be resolved without hearing pursuant to Idaho Code § 47-328(3)(d), IDL requests that the evidentiary hearing proceed because of the novelty of the proposed exploration and to allow for relevant public comment.

### **III. POSITION STATEMENT**

Unless relevant conflicting evidence or testimony is presented at the evidentiary hearing, IDL's position is that Cascade's application should be granted, with conditions. Together the application, declarations, and exhibits present sufficient evidence to conclude that the proposed spacing unit is appropriate.

As explained above, Cascade's proposed exploration of geologic hydrogen is novel in Idaho. Rather than seeking the establishment of a spacing unit for a producing well, Cascade's application seeks the establishment of a spacing unit to drill a stratigraphic test well, or an "exploratory" well. Cascade asserts that the "well will be drilled for stratigraphic and geological information purposes only and will not be completed as a producing well." *Application*, 1. In addition, Cascade states that the "purpose of the proposed spacing unit is to facilitate drilling a single exploratory stratigraphic test well while preventing waste and avoiding unnecessary wells. By obtaining critical geological data from this Test Well now, [Cascade] can avoid the need for

multiple ‘wildcat’ wells in the future, thereby serving the statute’s goal of preventing unnecessary drilling.”<sup>3</sup> *Id.*

Cascade’s application is supported by the declarations of Bronson Barrett, Senior Landman for Cascade, and Heather Bader, Senior Drilling Engineer for Cascade. *Application*, 7 [*Barrett Declaration*]; *Application*, 8–10 [*Bader Declaration*]. In the *Bader Declaration*, Ms. Bader explains:

Stratigraphic test wells are exploratory wells drilled with the primary purpose of collecting geological information, rather than producing oil or gas. In gas exploration, stratigraphic test wells are used to penetrate rock formations of interest, retrieve core samples, and record detailed geophysical logs in order to understand the stratigraphy, lithology, fluid content, and reservoir potential of those formations. These wells are invaluable in areas with little or no existing well control data; they allow geologists and engineers to confirm the presence (or absence) of reservoir quality rocks, hydrocarbons, nonhydrocarbons, calibrate seismic data to actual rock strata, and assess the thickness and properties of target formations. The goal of a stratigraphic test well is to gather data that will guide decisions on where and how to drill future production wells (if any), how to design those wells, and whether further exploration is justified. Importantly, a stratigraphic test well is not intended to produce hydrocarbons for sale[.]” ¶ 2.

*Bader Decl.* ¶ 2. Ms. Bader concludes: “Granting this application will enable Cascade Exploration, LLC to safely and efficiently obtain critical geological information. This information will directly support the proper design of any future drilling and spacing programs, thereby promoting the efficient development of Idaho’s oil and gas resources and preventing waste.” *Bader Decl.*, ¶ 6.

IDL acknowledges that this situation differs from that of a typical producing unit. As stated in IDL’s response letter to the application, the primary information IDL requests to clarify the application is regarding the proposed well drilling and testing details. As this proposed well is intended to be exploratory, IDL does not expect Cascade to discuss its geologic and geophysical interpretations, models, and theories regarding geologic hydrogen occurrence in the basin or potential volumes and rates of production at hearing. Instead, IDL requests that Cascade provide information regarding the type of well (vertical, deviated or horizontal), casing program, types of tests, equipment that will be onsite for testing, the anticipated duration of drilling and testing the well, and any other information related to the drilling and testing operations. Although some of

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<sup>3</sup> A wildcat well is defined as “[a]n exploratory well drilled in an area of unknown subsurface conditions.” IDAPA 20.07.02.010.50.

the information was included in the *Bader Declaration*, IDL may ask for further clarification from Cascade at the hearing.

In addition, in Cascade's application, Cascade offers the following special conditions and commitments:

The Test Well that is the subject of this application will be drilled and managed with unique conditions that distinguish it from a producing gas well. **Applicant commits that the Test Well will not be completed for production.** No production casing will be set across any 3 prospective zones (except as needed for well control and safety), and no perforation, stimulation, or production will be conducted that would allow the well to commercially flow gas to the surface. The well will be drilled to a total vertical depth ("TVD") sufficient to penetrate the target geological formations of interest and collect the necessary data (such as cores, cuttings, and open-hole geophysical logs). **Within one (1) year of reaching TVD, the Applicant will plug and abandon the well in accordance with Idaho Department of Lands requirements (Idaho Admin. Code Rule 20.07.02, etc.), restoring the site and eliminating any long-term wellbore presence. The Test Well will not be connected to any sales point at any time.** These conditions ensure that the Test Well remains purely exploratory in nature. In essence, the requested spacing unit is a procedural mechanism to allow the drilling of this exploratory Test Well; **it will expire upon plugging of the well** and will not hinder any future spacing or development plans by either Applicant or other operators in the area. Applicant's proposal to plug the well within one year of drilling total depth provides additional assurance that this operation is temporary and solely for data gathering. By granting this application, the Department will enable the collection of valuable subsurface data while imposing strict limits that protect correlative rights and prevent any waste or undue interference with the rights of other mineral owners.

*Application*, 2–3 (emphasis added). These commitments are reflected in and supported by the *Bader Declaration*. *Bader Decl.*, ¶ 3.

IDL supports Cascade's commitments to ensuring the temporary and non-productive nature of this proposed spacing unit. IDL At this time, IDL recommends that the approval of the spacing unit be subject to the following conditions that parallel the commitments Cascade makes in its application. First, IDL recommends that the spacing unit be approved with an expiration date that coincides with the plugging of the well. Second, IDL recommends that the well should be required to be plugged within a definite time after drilling commences, unless Cascade can show that geologic conditions impeded the drilling and such impediment justifies an extension. Third, IDL recommends that the spacing unit be approved on the condition that it will be limited to exploration and shall not be used for production. If Cascade decides that it would like to, for



example, deepen the well, drill a lateral or horizontal section, or test volumes of gas that will be sold as required under IDAPA 20.07.02.413, Cascade should apply for a new or amended spacing unit per Idaho Code § 47-317. Finally, IDL recommends that the well location be required to comply with the standard spacing unit minimum setbacks.

These recommendations are preliminary. The information that IDL requests Cascade provide at hearing regarding the anticipated timeframes for drilling, testing methods, and duration of testing will assist IDL in refining its recommendations for conditions on the proposed unit and any other conditions that might be pertinent to the eventual Order. At hearing, upon consideration of the information Cascade presents, James Thum, IDL's Oil & Gas Program Manager, will testify to IDL's recommended conditions and will either affirm the recommendations described herein or will recommend revised conditions.

#### **IV. CONCLUSION**

Cascade's application should be granted, with conditions. Cascade's application, declarations, and exhibits present sufficient evidence to conclude that Cascade complied with the statutory and regulatory requirements and that the proposed spacing unit is appropriate. The reduced spacing unit, with recommended conditions, will enable the efficient and economical development of the pool as a whole, provided that Cascade's tests confirm its presence. A single exploratory well located in this proposed spacing unit would prevent waste, avoid drilling unnecessary wells, protect correlative rights, and promote the development of Idaho's naturally occurring gas resources.

DATED this 14th day of August 2025.

IDAHO DEPARTMENT OF LANDS



Kayleen R. Richter

Attorney for Idaho Department of Lands

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of August, 2025, I caused to be served a true and correct copy of the foregoing document, by the method indicated:

Bronson Barrett  
Lauren Morahan  
Cascade Exploration, LLC  
c/o Koloma  
1900 Grant Street, Suite 1250  
Denver, CO 80203  
*Applicant*

☐ U.S. Mail  
☒ Email: [bbarrett@koloma.com](mailto:bbarrett@koloma.com)  
[lmorahan@koloma.com](mailto:lmorahan@koloma.com)

Andrew Irvine  
Stoel Rives LLP  
101 S. Capitol Blvd., Ste. 1900  
Boise, ID 83702  
*Attorney for Applicant*

☐ U.S. Mail  
☒ Email: [andrew.irvine@stoel.com](mailto:andrew.irvine@stoel.com)

James Thum  
Idaho Department of Lands  
300 North 6<sup>th</sup> Street  
Boise, ID 83702  
*IDL Program Manager, Oil and Gas*

☐ U.S. Mail  
☒ Email: [jthum@idl.idaho.gov](mailto:jthum@idl.idaho.gov)

John Richards  
Kayleen Richter  
Idaho Department of Lands  
300 North 6<sup>th</sup> Street  
Boise, ID 83702  
*Attorneys for IDL*

☐ U.S. Mail  
☒ Email: [jrichards@idl.idaho.gov](mailto:jrichards@idl.idaho.gov)  
[krichter@idl.idaho.gov](mailto:krichter@idl.idaho.gov)

Kourtney Romine  
Kayla Dawson  
Idaho Department of Lands  
300 North 6<sup>th</sup> Street  
Boise, ID 83702  
*Service Contacts for IDL*

☐ U.S. Mail  
☒ Email: [kromine@idl.idaho.gov](mailto:kromine@idl.idaho.gov)  
[kdawson@idl.idaho.gov](mailto:kdawson@idl.idaho.gov)

OAH  
General Government Division  
P.O. Box 83720  
Boise, ID 83720-0104  
816 W. Bannock St.  
(208) 605-4300  
*Hearing Officer*

☐ U.S. Mail  
☒ Email: [filings@oah.idaho.gov](mailto:filings@oah.idaho.gov)  
[scott.zanzig@oah.idaho.gov](mailto:scott.zanzig@oah.idaho.gov)



Kayleen R. Richter  
Attorney for Idaho Department of Lands