

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of AM Idaho,)
LLC for Spacing Order and to Integrate Unleased)
Mineral Interest Owners in the Drilling Unit)
Consisting of the SW ¼ of Section 10, Township)
8 North, Range 5 West, Boise Meridian, Payette)
County, Idaho.)
AM Idaho, LLC, Applicant.)
_____)

Docket No. CC-2019-OGR-01-002

**CONTINUANCE AND
SCHEDULING ORDER**

AM Idaho, LLC (“AMI”) filed an application on June 24, 2019, for a spacing order and to integrate all uncommitted owners in the proposed unit consisting of the SW ¼ of Section 10, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho. The Oil and Gas Division Administrator (“Administrator”) of the Idaho Department of Lands subsequently issued a July 10, 2019 *Order Vacating Hearing, Order Setting Hearing to Determine “Just and Reasonable” Factors, and Notice of Hearing and Setting Filing Deadlines* that set and noticed a September 9, 2019 hearing to determine “just and reasonable factors” and established briefing deadlines for that hearing.¹ After receiving written briefs, the Administrator held the hearing on the factors used to determine “just and reasonable” terms on September 9, 2019 at 9:00 am at the Payette County Courthouse, 1130 3rd Ave N, Ste. 104, Payette, Idaho. The Administrator notified

¹ The Administrator for good cause vacated his August 8, 2019 evidentiary hearing date because prior to the evidentiary hearing the Administrator needed to make a decision on the factors he would consider in determining whether the terms of an integration order fulfill Idaho Code § 47-320(1)’s “just and reasonable” requirement. The Administrator set the September 9, 2019 hearing to determine “just and reasonable factors” in order to comply with the United States District Court for the District of Idaho’s order to “hold a new hearing that complies with due process by explaining the factors that will be considered when determining whether the terms and conditions of an integration order are ‘just and reasonable’” under Idaho Code § 47-320(1). *Citizens Allied for Integrity & Accountability, Inc. v. Schultz*, 335 F. Supp. 3d 1216 (D. Idaho 2018)

the parties at the hearing that he would issue a written order within 30 days of the September 9, 2019 hearing. *Hr'g Tr.* p. 5, ll. 20-22.

MOTION TO INTERVENE

On October 7, 2019, James Piotrowski filed a *Motion to Intervene on Behalf of Effected [sic] but Excluded Mineral Rights Owners and Motion to Reopen Hearing* (“*Petition to Intervene*”) on behalf of Carrie Grant, Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, Dana Harris, and Sandra Dunlap. The *Petition to Intervene* represents that each of the persons listed is (1) a mineral rights owner in Fruitland, Idaho; (2) holds mineral rights included in a portion of AM Idaho, LLC’s identified hydrocarbon pool; and (3) did not receive notice of this proceeding. The *Petition to Intervene* requests that the Administrator allow these persons to intervene as parties in the proceeding and to reopen the record and allow additional submission of evidence and argument as to what factors the Administrator will consider to determine just and reasonable terms.

The Idaho Rules of Administrative Procedure of the Attorney General address petitions to intervene. IDAPA 04.11.01.350-354.² Rule 350 states that a petition to intervene to be a party may be filed by “[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding.”

Rule 351 requires a petition to intervene to “set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding.” IDAPA 04.11.01.351. Here, the petition to intervene sets out the names of the potential intervenors, but does not set out the addresses of those persons. The Administrator

² The *Petition to Intervene* does not cite a statute or rule for authority to intervene.

therefore requires the potential intervenors to comply with Rule 351 by submitting their addresses within 3 days of this order.

Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. IDAPA 04.11.01.354. For that reason, any opposition to the *Petition to Intervene* must be filed within seven (7) days after the party receives the petition. As the petition was served on some parties by e-mail and others by U.S. Mail, the Administrator will not issue a decision on the *Petition to Intervene* any earlier than October 18, 2019. That will ensure that all parties have seven days from receipt to respond to the *Petition to Intervene*.

Because the *Petition to Intervene* requests the Administrator reopen the record and allow additional evidence and argument as to what factors the Administrator will consider to determine just and reasonable terms, the Administrator will also continue the issuance of his order to determine just and reasonable terms until after he issues a decision on this *Petition to Intervene*.

ORDER

The Administrator hereby ORDERS:

1. The issuance of an Administrator order to determine just and reasonable factors is continued pending the Administrator's decision on the *Petition to Intervene*;
2. The persons petitioning to intervene must provide their addresses as required in IDAPA 04.11.01.351 by October 15, 2019; and
3. Any party opposing the *Petition to Intervene* must file such opposition within seven (7) days of receipt of the petition to intervene and serve the opposition upon all parties of record and upon the persons petitioning to intervene.

DATED this 9 day of October, 2019.

A handwritten signature in blue ink that reads "Mick Thomas". The signature is written in a cursive style with a horizontal line underneath it.

MICK THOMAS
Administrator, Idaho Department of Lands Oil and Gas Division

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of October 2019, I caused to be served a true and correct copy of the following item in Docket No: CC-2019-OGR-01-002: *Continuance and Scheduling Order* by the method indicated below and addressed to the following:

AM Idaho, LLC
c/o Michael Christian
Smith + Malek
101 S. Capitol Blvd, Suite 930
Boise ID 83702

- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested
- Email: mike@smithmalek.com

Kristina Fugate
Deputy Attorney General
PO Box 83720
Boise ID 83720-0010

- U.S. Mail, postage prepaid
- State House Mail
- Certified mail, return receipt requested
- Email: kristina.fugate@ag.idaho.gov

Joy Vega
Deputy Attorney General
PO Box 83720
Boise ID 83720-0010

- U.S. Mail, postage prepaid
- State House Mail
- Certified mail, return receipt requested
- Email: joy.vega@ag.idaho.gov

Mick Thomas
Idaho Department of Lands
PO Box 83720
Boise ID 83720-0050

- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested
- Email: mthomas@idl.idaho.gov

James Thum
Idaho Department of Lands
PO Box 83720
Boise ID 83720-0050

- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested
- Email: jthum@idl.idaho.gov

James Piotrowski
Attorney for CAIA,
Certain Non-Consenting Owners (Judith and Jimmie
Hicks, Karen Oltman, Alan and Glenda Grace, Shady
River, LLC), and
Petitioners to Intervene (Carrie Grant, Shannon
Benedict, Donald and Phyllis Gruell, Sharon Simmons,
Lowell and Geraldine Davis, James and Beverly Smith,
Dana Harris, and Sandra Dunlap)
1020 W. Main St, Suite 400
PO Box 2864
Boise, ID 83702


- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested
- Email: james@idunionlaw.com

City of Fruitland
Attn: Rick Watkins-City Clerk
PO Box 324
Fruitland ID 83619

- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested

Anadarko Land Corp.
Attn: Dale Tingen
1201 Lake Robbins Dr
The Woodlands TX 77380

- U.S. Mail, postage prepaid
- Hand Delivery
- Certified mail, return receipt requested



Kourtney Romine
Administrative Assistant