



IDAHO OIL AND GAS CONSERVATION COMMISSION

Betty Coppersmith, Chair
Ray Hinchcliff, Vice Chair
Jim Classen, Commissioner
Dustin Miller, Commissioner
Jennifer Riebe, Commissioner

Mick Thomas, Secretary to the Commission

Final Minutes
Idaho Oil and Gas Conservation Commission Special Meeting
April 13, 2023

The special meeting of the Idaho Oil and Gas Conservation Commission was held on Thursday, April 13, 2023, at Idaho Department of Lands, Garnet Conference Rooms, 300 N 6th Street, Suite 103, Boise, Idaho. The meeting began at 1:01 p.m. (MT). Chairman Betty Coppersmith presided via virtual means. The following members were present:

Vice Chairman Ray Hinchcliff – *via virtual means*
Commissioner Jim Classen
Commissioner Dustin Miller
Commissioner Jennifer Riebe – *via virtual means*

For the record, a quorum was in attendance; two Commissioners and Secretary Thomas were present at the physical location. Chairman Coppersmith, Vice Chairman Hinchcliff, and Commissioner Riebe attended via virtual means. Chairman Coppersmith went over the agenda items.

At 1:01 p.m., a motion was made by Chairman Coppersmith that the Commission convene into Executive Session to communicate with counsel for us to discuss the legal ramifications and options for responding to the plaintiffs' latest communication pursuant to Idaho Code §74-206(1)(f). Vice Chairman Hinchcliff seconded the motion. Chairman Coppersmith stated a roll call vote is required. Roll Call Vote: *Aye*: Hinchcliff, Classen, Miller, Riebe, Coppersmith; *Nay*: None; *Absent*: None.

- **Executive**

A. Idaho Code 74-206(1)(f) - to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: CAIA v. Miller, Idaho Federal District Court case No. 1:21-cv-00367-DCN]

At 2:09 p.m., the Commission resolved out of Executive Session by unanimous consent. For the record, no decisions were made during the Executive Session. Chairman Coppersmith called for a brief recess and brought the Commission back into regular session at 2:19 p.m.

- **REGULAR (ACTION)**

1. **CAIA v. Miller, Idaho Federal District Court case No. 1:21-cv-00367-DCN**

DISCUSSION: Chairman Coppersmith explained that what is on the table is the fact that plaintiffs have responded and asked that we consider waiving the request for legal fees and that during the executive session, Ms. Vega went through the implications and options that we as a Commission have, but of course no decisions were made at that time. Chairman Coppersmith opened the floor for discussion. Commissioner Classen stated as to whether or not to recover some of these fees, his concern is who would potentially pay them, and whether it would be appropriate that we should have some return of our attorney fees. He noted that the Commission has been served before and the Commission lost their position, and it cost hard dollars after the lawsuit, of attorney fees, as he recalled about \$95,000. Commissioner Classen suggested that it would be appropriate to recover some of those costs, because they came out of the public's funds from the State of Idaho. He added that for more than 100 years, the extraction of oil and gas has been taking place in other states and the rules and regulations have been fine-tuned over that period and Idaho has merged ideas from other states into our statutes; we have to live by our statutes. Commissioner Classen explained that for the past ten years that he has been on the Commission, a small minority have questioned our regulations. Our Commission and staff have defended the majority as the right to develop their mineral interests; the State of Idaho has spent hundreds of thousands of dollars in this defense, we have had multiple meetings, we have had appeals, the Commissioners, during the lawsuit, had to spend their personal time preventing the loss of any data or previous communication. Commissioner Classen stated that we need to attempt to recover some of these costs, if possible, from the entity causing these costs. Commissioner Classen clarified that what we are talking about today is whether or not we pursue attorney costs, or we take up the compromise offer. He asked Madame Chair if she or someone would tell us why we are here today. Chairman Coppersmith responded that it is to whether the Commission accept the plaintiffs' proposal, or if we continue to pursue the attorney fees; those are the two options that are on the table. Chairman Coppersmith stated that in her opinion, this is something that we should request the attorney fees, mainly because Commissioners are stewards of the resources of the state of Idaho, not only of oil and gas as Oil and Gas Commissioners, but also of financial resources and that we would be remiss if we did not pursue those fees. Vice Chairman Hinchcliff agreed, and he thinks that should be the basis. He added that it is not a basis on what may or may not happen in the future, but he thinks it is a basis on we should be stewards of the State's money and if we have an opportunity to reclaim some of those funds, we should pursue it. Commissioner Riebe pointed out that decision was actually made several weeks ago. Commissioner Miller noted that he appreciates what has been said and that they have all given a lot of thought to this on what we individually think is the right path forward here. He added that there are other parties involved in this litigation as well and we do not know what may be offered to them in terms of a settlement but we have to stay focused on what is right for the Commission and the state of Idaho, and as Betty said, being stewards of the natural resource out there that we are responsible for along with the money that has been entrusted to us by the taxpayers of Idaho to make sure is used appropriately. Commissioner Miller agrees with what has been said about needing to pursue the attorneys' fees in this case.

COMMISSION ACTION: A motion was made by Commissioner Riebe that the Commission reject the plaintiff's offer and continue to pursue legal fees. Commissioner Classen seconded the motion. The motion carried on a vote of 5-0.

There being no further business before the Commission, at 2:27 p.m. a motion to adjourn was made by Commissioner Classen. Commissioner Miller seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.

IDAHO OIL AND GAS CONSERVATION COMMISSION

/s/ Betty Coppersmith
Betty Coppersmith, Chairman
Idaho Oil and Gas Conservation Commission

/s/ Mick Thomas
Mick Thomas
Secretary to the Commission

The above-listed final minutes were approved by the Commission at the June 6, 2023 regular Idaho Oil and Gas Conservation Commission meeting.