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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of AM)	Docket No. CC-2019-OGR-01-002
Idaho, LLC for Spacing Order and to)	
Integrate Unleased Mineral Interest)	MOTION TO DISMISS APPLICATION
Owners in the Drilling Unit Consisting of)	FOR FAILURE TO SERVE, OR TO
the SW 1.4 of Section 10, Township 8)	SHOW CAUSE
North, Range 5 West, Boise, Meridian,)	
Payette County, Idaho.)	
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)	
)	

COME NOW Citizens Allied for Integrity and Accountability, Judith and Jimmie Hicks, Karen Oltman, Alan and Glenda Grace, Shady River, LLC (non-committed mineral owners and their representative), and Carrie Grant, Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, Dana Harris, and Sandra Dunlap (the effected but excluded mineral rights owners and Intervenor), by and through counsel of record and hereby move the Commission and Idaho Department of Lands to either dismiss or to issue an order for Applicant AM Idaho, LLC to show cause why its application should not be dismissed. As grounds for such motion, movants would show as follows and as supported by the attached affidavit of Julie Fugate.

I. Facts and Background

Applicant AM Idaho, LLC (“AMI”) has pursued a unique and previously untested theory in this application that would define a spacing unit by reference to its own economic analysis, rather than by reference to geology or property law. AMI seeks to define a spacing unit solely by reference to the volume of natural gas that it believes it can profitably extract from a well, rather than by reference to the actual size of the pool of hydrocarbons which it believes has been reached by an existing well. Specifically, AMI has sought to exclude from the spacing unit mineral owners with property interests in the same pool of hydrocarbons, whose surface estates lie immediately adjacent to the proposed spacing unit, including many with whom AMI has entered into mineral rights leases concerning the exact same pool. Thus, AMI filed an application seeking a spacing unit consisting of the SW ¼ of Section 10 Township 8 North Range 5 West. In a previous application relating to exactly the same hydrocarbon pool and well, AMI had joined that 1/4-section with the adjacent ¼-sections in Sections 9, 15 and 16 of the same township and range.

On November 21, 2019, Oil and Gas Division Administrator Mick Thomas issued an Order directing AMI to serve copies of its application and specific, related documents on all “mineral interest owners located in the SE ¼ of Section 9, the NW ¼ of Section 15, and the NE ¼ of Section 16, Township 8 North, Range 5 West” in Payette County. These are the adjacent ¼-sections that AMI had previously sought to integrate in a 2016 application. Administrator Thomas made clear that “If AMI fails to serve notice as directed within fourteen (14) days, then the Administrator will dismiss AMI’s application.” The 14 day period was later extended in order to allow AMI additional time to complete its property ownership research and to assure its

service list was complete, at which time Administrator Thomas again repeated the requirement that failure to serve would result in dismissal. (See Order dated December 10, 2019).

On or about December 13, 2019, AMI filed its Notice of Service, identifying each of the mineral interest holders to whom it sent the application and related materials.

II. Evidence of Failure to Properly Serve

Substantial evidence supports the conclusion that AMI failed to properly identify and serve all of the uncommitted mineral interest owners in the required ¼-sections. Specifically, it appears multiple property owners in the NW ¼ of Section 15, Township 8 North, Range 5 West, were not served. Based on AMI's Proof of Service, it appears to have excluded from service a large number of property owners on Cottonwood Drive in the NW ¼ of Section 15.

Cottonwood Drive is a recently developed street of residential homes. Current property owners have taken possession and ownership over approximately the last 12 to 14 months. At present, it is subdivided into approximately 25 lots. Attached to this motion is the Affidavit of Julie Fugate. Included in her affidavit is a list of the owners of record of the 25 parcels on Cottonwood Drive. This list was developed from existing property records made available by Payette County. Of the 25 listed property owners, only 3 are included in the proof of service filed by AMI on December 13. Another 2 are shown on Payette County property records as having leased their mineral interests. That leaves 20 for whom Payette County shows no mineral leases (showing they are uncommitted owners), but who do not appear on AMI's service list, and thus do not appear to have received service as required by Director Thomas.

III. Conclusion

The Administrator's admonition that if AMI did not properly and timely serve its application it would be dismissed was, presumably, based on the history of service failures by

AMI and related entities. That history need not be repeated here since the Administrator did make clear the consequences that would be imposed if service was not completed.

In the present case, dismissal is likely the only remedy that would make clear to AMI and all other applicants that the Department of Lands and the Oil and Gas Conservation Commission will take seriously the due process rights of affected property owners. The Administrator should either dismiss the present application, or should at the very least issue an order to show cause why AMI's application should not be dismissed. Any other course of conduct would risk the Administrator's credibility as a hearing officer and as a regulator of an industry with a sordid history.

For all the foregoing reasons the application should be dismissed.

Dated this 16th day of January, 2020

PIOTROWSKI DURAND, PLLC

 /s/ James M. Piotrowski
James M. Piotrowski
Attorneys for Proposed Intervenors

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2020, I caused to be served a true and correct copy of the preceding motion in Docket No: CC-2019-OGR-01-002 by the method indicated below and addressed to the following:

Idaho Department of Lands Attn: Mick Thomas 300 N. 6 th Street, Suite 103 PO Box 83720 Boise, ID 83720 kromine@idl.idaho.gov	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
AM Idaho, LLC c/o Michael Christian Smith & Malek, PLLC 101 S. Capitol Blvd, Suite 930 Boise, ID 83702 mike@smithmalek.com lauren@smithmalek.com	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Kristina Fugate Deputy Attorney General PO Box 83720 Boise ID 83720-0010 kristina.fugate@ag.idaho.gov	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
Joy Vega Deputy Attorney General PO Box 83720 Boise ID 83720-0010 joy.vega@ag.idaho.gov	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
James Thum Idaho Department of Lands PO Box 83720 Boise ID 83720-0050 jthum@idl.idaho.gov	U.S. Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/>
City of Fruitland Attn: Rick Watkins-City Clerk PO Box 324 Fruitland, ID 83619	U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input type="checkbox"/>
Anadarko Land Corp. Attn: Dale Tingen 1201 Lake Robbins Dr The Woodlands TX 77380	U.S. Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> E-Mail <input type="checkbox"/>

/s/ James M. Piotrowski
James M. Piotrowski

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of AM) Docket No. CC-2019-OGR-01-002
Idaho, LLC for Spacing Order and to)
Integrate Unleased Mineral Interest) AFFIDAVIT OF JULIE FUGATE IN
Owners in the Drilling Unit Consisting of) SUPPORT OF MOTION TO DISMISS
the SW 1.4 of Section 10, Township 8) APPLICATION FOR FAILURE TO
North, Range 5 West, Boise, Meridian,) SERVE, OR TO SHOW CAUSE
Payette County, Idaho.)
)
)
)
_____)

STATE OF IDAHO)
)
COUNTY OF PAYETTE)

COMES NOW Julie Fugate, and does hereby swear and depose as follows:

1. I am an adult resident of Payette County, and competent in all respects to make this affidavit. If called to testify I would and could state the following on personal knowledge.
2. I am a volunteer and a member of Citizens Allied for Integrity and Accountability (“CAIA”) and have been personally involved with CAIA’s efforts to protect the property interests of Idaho’s citizens over the last several years.
3. I have reviewed the Proof of Service that was filed by AM Idaho, LLC’s attorneys on December 13, 2019. I have also been in contact with property owners within the four ¼-sections that were subject to AMI’s 2016 integration application, and which were required to be served. In late December, 2019, I heard that some of those property owners may not have received the Notice that AMI was supposed to serve on all mineral interest owners in those ¼-sections. Specifically, I heard that the residents of Cottonwood Drive in the NW ¼ of Section 15 may not have received notice.

4. After hearing these statements, I decided to look closer and see if these were mere rumors or were true statements. I already had some information about the residents of Cottonwood Drive, as some of them I had met at various meetings and others I had actually met at their homes as part of my volunteer work with CAIA. I reviewed the December 13, 2019 Proof of Service from AMI and discovered I could find only a few of the Cottonwood Drive residents on the service list. This caused me to undertake additional efforts to identify the Cottonwood Drive property owners, try to determine their status with relation to AMI's efforts to obtain leases, and determine whether they had received the notices required by prior orders of the Idaho Oil and Gas Commission.

5. To undertake this work, I started by preparing a list of the owners of record of the homes and lots on Cottonwood Drive. To build that list I used my own notes of conversations with residents of Cottonwood Drive, as well as two Payette County websites which provide public access to details about property parcels and to documents related to those properties. Using those resources I found 25 separate addresses on Cottonwood Drive. Each of those addresses is included in the list below.

6. For each of those addresses and owners I also searched for mineral rights leases on the Payette County website. I found that two of the properties had an oil and gas lease associated with them. The information regarding oil and gas leases is also included in the list below.

7. Then I compared the list of Cottonwood Drive addresses and owners to the service list provided by AMI. I found that three of the owners were definitely on the service list. I included on the list below information about those three. The other 20 owners do not appear on AMI's service list or in Payette County's database of mineral leases. I have spoken to six of

these 20 un-served property owners, and none of those six told me that received the required notice, have signed an oil and gas lease, or were informed of any pre-existing oil and gas lease on their property.

8. The results of my research, including review of the Proof of Service, multiple searches of the Payette County database, and visits to Cottonwood Drive are summarized in this table:

Address	Owners	Filed Lease?	Served by AMI?
1511 Cottonwood	Joseph Marasa	No	No
1509 Cottonwood	Donald and Sue Ann Bodewig	No	No
1415 Cottonwood	Gale Gehret	No	No
1407 Cottonwood	Larry Stuart	Yes	No
1405 Cottonwood	Don & Phyllis Gruell	No	Yes
1309 Cottonwood	Paola D'Aleman Poveda & Jean-Sebastien Delage	No	No
1307 Cottonwood	Albert Exley Trust	No	No
1303 Cottonwood	Dale Verhaeghe & Linda Dernoncourt	No	Yes
1209 Cottonwood	Jason & Lori Hysell	No	No
1207 Cottonwood	Mike Wilson	Yes	No
1205 Cottonwood	Stephen & Laura Lambert	No	No
1203 Cottonwood	Wendell & Norma Nierman	No	Yes
1206 Cottonwood	Lydia & Miguel Machuca	No	No
1208 Cottonwood	Philip & Kathleen Hendrickson	No	No
1210 Cottonwood	William & Roxie Tolbert	No	No
1300 Cottonwood	L&L Builders	No	No
1304 Cottonwood	Antonio & Danielle Anchustegui	No	No
1310 Cottonwood	Richard Heller	No	No
1314 Cottonwood	Mike Heller	No	No
1420 Cottonwood	Lance & Lauren Silva	No	No
1424 Cottonwood	Richard & Cheryl Addison	No	No
1502 Cottonwood	Stevan Iler	No	No
1506 Cottonwood	Robert & Merri Haskins	No	No
1301 Cottonwood	Larry & Debbie Butler	No	No
1428 Cottonwood	RAM Development	No	No

9. The table above shows the results of my research. It also shows that while 3 of the properties on Cottonwood Drive appear to have received notice, and 2 of them appear to be

covered by existing leases, 20 others are neither covered by a lease nor have they received the notice required by Administrator Mick Thomas.

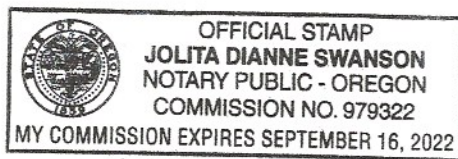
FURTHER Affiant sayeth nought.

DATED this 15th day of January, 2020.

Julie Fugate
Julie Fugate

Subscribed and sworn to before me this 15th day of January, 2020.

Jolita Dianne Swanson
Notary Public



My Commission Expires: 9-16-2022