



IDAHO OIL AND GAS CONSERVATION COMMISSION

Chris Beck, Chairman
Margaret Chipman, Vice Chairman
Sid Cellan, Commissioner
Jim Classen, Commissioner
Ken Smith, Commissioner

Tom Schultz, Secretary to the Commission

Final Minutes
Idaho Oil and Gas Conservation Commission Special Meeting
July 15, 2015

The special meeting of the Idaho Oil and Gas Conservation Commission was held on Wednesday, July 15, 2015 in the State Capitol, Lincoln Auditorium (WW02), at 700 West Jefferson Street, Boise, Idaho. The meeting began at 3:01 p.m. Chairman Chris Beck presided. The following members were present:

Vice Chairman Margaret Chipman
Commissioner Ken Smith

For the record, Chairman Beck recognized the presence of three Commission members and the absence of Commissioners Cellan and Classen.

• **REGULAR**

- 1. Negotiated Rulemaking - Docket No. 20.0701.1501; IDAPA 20.07.01 Rules of Practice and Procedure Before the Idaho Oil and Gas Conservation Commission** – *Presented by Patrick Hodges, Deputy Director Lands and Waterways*

RECOMMENDATION: The Department recommends the Commission terminate negotiated rulemaking for Docket No. 20.0701.1501 pursuant to Idaho Code § 67-5221 and adopt a policy to use the APA (IDAPA 04.11.01) in proceedings where the Oil and Gas statutes and rules do not expressly provide procedures.

DISCUSSION: Deputy Director Patrick Hodges presented the agenda item. Dylan Lawrence, a private practice attorney, expressed concern about terminating the rulemaking process and also mentioned that IDL staff agreed to provide a written summary about why the rulemaking is not necessary. Mr. Lawrence asked that the termination be put on hold until the written summary is issued. Justin Hayes from Idaho Conservation League voiced his observation that industry and others were not happy with the contested case provisions that were in effect prior to the last legislative session. Mr. Hayes stated that the Commission needs new rules and suggested that the Commission not terminate rulemaking but direct the Department to resume the process. Julia Page, a board member of the Idaho Organization of Resource Councils, stated her support

of the two previous speakers' comments. Ms. Page mentioned the desire to see or understand the rules for citizens to challenge a decision by the Commission. Ms. Page commented that the rulemaking process should continue. Mary Sue Roach, chair of Weiser River Resource Council, reiterated the previous speakers' statements. Ms. Roach remarked that better references need to be in place and that the contested case process is unclear. Ms. Roach supported continuing the rulemaking process. Michael Christian, attorney for Alta Mesa, also agreed with previous speakers and stated there needs to be transparency and a complete understanding of those specific areas that are impacted and those that are not as a result of the legislation that was passed. Mr. Christian noted that all parties must have a clear comprehension of what exactly would be addressed in rulemaking before going forward.

Director Schultz clarified that there are two parts to the Department's recommendation; the first is to terminate the rulemaking process and the second is to continue to operate under the Administrative Procedures Act for other areas that are not addressed in statute. Director Schultz acknowledged the need for additional clarity and expressed reluctance to open a new rulemaking process until there is a broader understanding of the Department's direction on this issue.

Chairman Beck asked Director Schultz the status of the oil and gas program manager position. Director Schultz replied that the new program manager would start the following Monday.

Vice Chairman Chipman noted her appreciation of the Director's explanation and his thorough research of this issue.

COMMISSION ACTION: A motion was made by Vice Chairman Chipman that the Commission terminate negotiated rulemaking for Docket No. 20.0701.1501 pursuant to Idaho Code § 67-5221 and adopt a policy to use the APA (IDAPA 04.11.01) in proceedings where the Oil and Gas statutes and rules do not expressly provide procedures. Commissioner Smith seconded the motion. The motion carried on a vote of 3-0.

There being no further business before the Commission, at 3:27 p.m. a motion to adjourn was made by Vice Chairman Chipman. Commissioner Smith seconded the motion. The motion carried on a vote of 3-0. Meeting adjourned.

