

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

In the Matter of the Application of Snake River Oil )  
and Gas, LLC for Spacing Order Consisting of the )  
E ½ of the SE ¼ of Section 9, the SW ¼ of Section )  
10, N ½ of the N ½ of the NW ¼ of Section 15, )  
and the N ½ of the NE ¼ of the NE ¼ of Section )  
16, Township 8 North, Range 5 West, Boise )  
Meridian, Payette County, Idaho. )  
Snake River Oil and Gas, LLC, Applicant. )

Docket No. CC-2020-OGR-01-001

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
ORDER**

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Snake River Oil and Gas, LLC (“Snake River”) filed an application on February 24, 2020, requesting a spacing order for a proposed 300-acre unit consisting of the E ½ of the SE ¼ of Section 9, SW ¼ of Section 10, the N ½ of the N ½ of the NW ¼ of Section 15, and the N ½ of the NE ¼ of the NE ¼ of Section 16, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho (hereinafter “proposed spacing unit”). That area was previously the subject of two spacing matters, Docket No. CC-2016-OGR-01-004<sup>1</sup> and Docket No. CC-2019-OGR-01-002.<sup>2</sup>

The Minerals, Public Trust, Oil & Gas Division Administrator, Richard “Mick” Thomas, (“Administrator”) of the Idaho Department of Lands (“IDL”) subsequently issued a March 9, 2020 *Notice of Hearing & Notice of Prehearing Conference* that scheduled an evidentiary hearing for April 9, 2020, at 9:00am (MST) at the Fruitland City Hall, 200 S. Whitley Dr., Fruitland, Idaho and a prehearing conference for April 2, 2020, at the same location.

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<sup>1</sup> Docket No. CC-2016-OGR-01-004 was a 2016 application for a 620-acre spacing unit. *See* Finding of Fact 1. That application was granted as a temporary unit until it was vacated in April 2019.

<sup>2</sup> Docket No. CC-2019-OGR-01-002 was a 2019 application for a 160-acre spacing unit. *See* Finding of Fact 1. That application was dismissed on April 21, 2020.

The Administrator next issued a March 18, 2020 *Order to Vacate and Continue Hearing*, pursuant to Idaho Code § 47-328(3)(d) and due to the COVID-19 emergency. That order vacated and continued the April 9, 2020 evidentiary hearing and the April 2, 2020 prehearing conference. In a subsequent order, the Administrator also continued the March 26, 2020 deadline for objections, responses, and prehearing motions. The Administrator provided that within sixty (60) days he would issue a notice with a new prehearing and hearing date and new deadlines.

On May 14, 2020, the Administrator issued a *Notice of Prehearing Conference, Order Setting Deadline for Objection, Response, and Prehearing Motions* (“*Notice of Prehearing Conference*”). Due to the COVID-19 emergency and the rapidly changing associated guidelines, the Administrator did not schedule a hearing date. He instead set objection, response, and prehearing motion deadlines for June 11, 2020, followed by a July 1, 2020 prehearing conference to discuss scheduling the hearing and possible procedures.

Uncommitted mineral interest owners within the proposed unit filed objections and responses, along with other mineral interest owners noticed within the 620-acre unit area previously proposed in Docket No. CC-2016-OGR-01-004. The objections and responses IDL received from those who owned mineral interests either within the proposed unit or the larger 620-acre area were:

- The McPheeters Family Trust, 2692 Bayberry Dr., Fruitland, ID
- Robbie and Bonnie McGehee, 1465 Ponderosa St, Fruitland, ID
- Ernie and Loretta Neuberger, 2691 Bayberry Dr, Fruitland, ID
- Tim & Kate Kilbourne, 1428 Cottonwood Dr., Fruitland, ID
- Colonel Wendall and Norma Nierman, 1203 Cottonwood Drive, Fruitland, ID
- Clint & Susan Traw, 2716 Dogwood Ave, Fruitland, ID
- Geraldine Davis, 8407 Washoe Rd, Fruitland, ID
- Joyce McCurdy 2742 Birch Rd, Fruitland, ID
- Philip and Kathleen Hendrickson, 1208 Cottonwood Dr Fruitland, ID
- William and Roxie Tolbert, 1210 Cottonwood Dr. Fruitland ID
- Alan & Glenda Grace, 1755 Killebrew Dr. Payette, ID
- Edward Adair, 2900 Birch Rd. Fruitland, ID

- Javier and Leticia Arciga, 2745 Cedar Drive Fruitland, ID
- Cheryl Smith, 2605 Rome Ave. Fruitland, ID
- Diane Johnson, 2737 Spruce Dr. Fruitland, ID
- Dale K. Verhaeghe Linda S. Dernoncoult, 1303 Cottonwood Drive Fruitland, ID
- Gary Owen, 1488 Poplar, Fruitland ID
- James and Patricia Dille, 2635 Dogwood Ave, Fruitland, ID
- Larry Butler, 1301 Cottonwood Dr. Fruitland, ID
- Gale M and Beverly A. Gehret, 1415 Cottonwood Dr Fruitland, ID
- Henshaw, 2694 Bayberry Dr. Fruitland, ID
- Dana and Malcolm Harris, 8301 Washoe Road Fruitland, ID
- Miguel Herrera/Francis Florez, 1207 NW 24th St. Fruitland, ID
- Cory Anne and Jacob Fortin, 2684 Bayberry Dr. Fruitland, ID
- Karen Vail, 2822 Spruce Drive, Fruitland ID
- Beverly and James Smith, 8616 Shannon Rd. Payette ID
- Adam & Holly Fugate, 2725 Dogwood Ave. Fruitland, ID
- Timothy Lefebvre, 8700 Shannon Rd. Payette, ID

James Piotrowski filed an objection on behalf of Judith and Jimmie Hicks, Karen Oltman, Allen and Glenda Grace, Shady River, LLC, Carrie Grant, Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, Dana Harris, Sandra Dunlap, and Citizens Allied for Integrity and Accountability (“CAIA”).<sup>3</sup> The City of Fruitland, also an uncommitted mineral interest owner in the proposed unit, filed a notice of appearance in the matter. In addition, the Administrator received many written comments from members of the public. No motions to intervene were filed or granted in this matter.

On July 1, 2020, pursuant to the May 14, 2020 *Notice of Prehearing Conference*, a telephonic prehearing conference was held, as provided for in IDAPA 04.11.01.510. The following individuals participated: Michael Christian, attorney for Snake River; James Piotrowski, attorney for certain objectors and CAIA (collectively, “CAIA Objectors”); David Eastman, employee for Woodgrain Millwork, Inc. (“Woodgrain”), representing Woodgrain and Kelly Dame; Stephanie

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<sup>3</sup> Sandra Dunlap was identified in the objection as holding a surface estate “within the identified area.” However, Mr. Piotrowski did not identify himself as appearing on behalf of Ms. Dunlap at hearing.

Bonnie, attorney for City of Fruitland; Deputy Attorney General Joy Vega, attorney for IDL; and James Thum, Minerals Program Specialist for IDL. No additional uncommitted mineral interest owners appeared or made their attendance known by telephone at the prehearing conference.

The Administrator subsequently entered a *Prehearing Order and Notice of Hearing* on July 21, 2020, which set a hearing for August 13, 2020 at 9:00 am, via Zoom. The *Prehearing Order and Notice of Hearing* provided that at the spacing evidentiary hearing, the Administrator would not consider evidence related to integration or “just and reasonable” terms and conditions of an integration order provided in Idaho Code § 47-320 and § 47-321<sup>4</sup>

The Administrator held the hearing via Zoom on August 13, 2020 at 9:00 am. Michael Christian represented Snake River at hearing, and Dr. James Allen provided testimony. James Piotrowski represented CAIA Objectors. Stephanie Bonnie represented the City of Fruitland at the hearing. Deputy Attorney General Joy Vega represented IDL, and James Thum provided testimony. No other uncommitted mineral interest owners appeared at the 9:00 am evidentiary hearing.

The parties participating in the hearing were given the opportunity to present testimony and evidence, as well as opening and closing statements, cross examine witnesses, and offer rebuttal testimony. The Administrator also asked questions of witnesses and attorneys. Snake River presented Exhibits SR 1-11. IDL presented Idaho Department of Lands Amended Exhibit 1. No objections to those exhibits were received and they were admitted into record.

Additionally, interested persons had the opportunity to present public testimony as public witnesses at a separate evening session of the hearing on August 13, 2020 at 6:00 pm, pursuant to

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<sup>4</sup> The Administrator reiterated this again at the beginning of the evidentiary hearing and public testimony session. Rec. two, 4:50.

Idaho Code § 67-5242(3)(c) and IDAPA 04.11.01.355.<sup>5</sup> At the opening of that evening session, the Administrator stated that he would also accept additional written public comments received on or before 5:00 pm on August 14, 2020 to ensure that all public witnesses had an opportunity to watch the hearing before filing comments.<sup>6</sup> The public witnesses that testified at this session were: Linda Dernoncourt, Roxie Tolbert, Susan Havlina, Shelley Brock on behalf of CAIA, Joey Ishida, Dana Gross, Sharon Simmons, Julie Fugate, and Sue Bixby. Several additional written comments were received before the August 14 deadline. Comments filed after 5:00 pm on August 14, 2020 were not considered in this decision.

The Administrator issued a *Continuance and Notice of Continued Hearing* (“*Continuance*”) on September 14, 2020. The evidence presented at the continued hearing was restricted to the following:

- (1) Evidence clarifying the top, bottom, and thicknesses of Sand B addressed towards a comprehensive assessment of the pool, which may be supported with reference to the structural bottom map and subsea depths.
- (2) Evidence regarding where the -1289’ subsea perforation would drain in relation to the pool, which could be addressed through a new map specifically addressing that question; and
- (3) Evidence addressing what percentage of hydrocarbons are below the transition line of the gas-water contact.

This evidence was requested to aid the Administrator in determining whether Sand B was completely separated from any other zone in the same structure, whether the 300 area spacing unit encompasses the maximum area that can be efficiently and economically drilled, or whether

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<sup>5</sup> Public witness testimony was held via Zoom videoconference with an in-person testimony option also available in Fruitland. The *Notice of Hearing* noted that comments via Zoom and in-person comments will be given the same weight and consideration regardless of the method used to testify.

<sup>6</sup> The August 13, 2020 Zoom hearing was live-streamed on Facebook-live. Due to technical difficulties, the hearing began late and was interrupted at several points. IDL recorded the entire hearing and it was posted on the website by the morning of August 14.

additional spacing units for Sand B should also be proposed in accordance with Idaho Code § 47-318(5).

The Administrator held the continued hearing via Zoom on October 6, 2020 at 9:00 am. Michael Christian represented Snake River, and Dr. James Allen provided testimony. James Piotrowski represented the CAIA Objectors. Stephanie Bonnie represented the City of Fruitland. Deputy Attorney General Angela Kauffmann represented IDL. No other uncommitted mineral interest owners appeared at the 9:00 am evidentiary hearing.

The parties participating in the continued hearing were given the opportunity to present testimony and evidence as limited by the *Continuance*, as well as opening and closing statements, cross examine witnesses, and offer rebuttal testimony. The Administrator also asked questions of witnesses and attorneys. Snake River presented Exhibit SR 12. No objections to the exhibit were received and it was admitted into record.

#### **FINDINGS OF FACT**

1. Two previous administrative proceedings have addressed lands included in the proposed spacing unit. One matter was Docket No. CC-2016-OGR-01-004, which was a 2016 application by operator Alta Mesa Services, LP and AM Idaho, LLC (collectively “Alta Mesa”) for a 620-acre spacing unit consisting of the SE ¼ of Section 9, the SW ¼ of Section 10, the NW ¼ of Section 15, and the NE ¼ of Section 16, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho. The second matter was Docket No. CC-2019-OGR-01-002, operator AM Idaho, LLC’s 2019 application for a 160-acre spacing unit consisting of the SW ¼ of Section 10, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho. The Administrator took official notice of all documents filed in Docket No. CC-2016-OGR-01-004 and Docket No. CC-2019-OGR-01-002.

2. In Docket No. CC-2016-OGR-01-004, the IDL Director issued a January 23, 2017 order that established a 620-acre temporary spacing unit consisting of the SE ¼ of Section 9, the SW ¼ of Section 10, the NW ¼ of Section 15, and the NE ¼ of Section 16, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho. That order was affirmed by the Commission in a March 7, 2017 Final Order.
3. In April 2018, Alta Mesa filed a petition to amend the Docket No. CC-2016-OGR-01-004 spacing and integration order, requesting an 18-month extension. The Administrator granted the petition with certain modifications on July 16, 2018.
4. In 2019, the Commission vacated these 2017 and 2018 orders and remanded the case to the Administrator for future proceedings based on the United States District Court for the District of Idaho's Memorandum Decisions and Orders issued in *CAIA v. Schultz*.<sup>7</sup> Alta Mesa later withdrew its application in Docket No. CC-2016-OGR-01-004, and the matter was vacated. From that date forward, no spacing order existed for that 620-acre area.
5. In June 2019, AM Idaho, LLC filed an application for spacing and integration in Docket No. CC-2019-OGR-001-002. AM Idaho requested a 160-acre spacing unit instead of Docket No. CC-2016-OGR-01-004's 620-acre unit. The Administrator bifurcated the spacing and integration proceedings and scheduled a spacing evidentiary hearing. However, AM Idaho, LLC filed for Chapter 7 bankruptcy and did not attend the prehearing conference. After AM Idaho failed to respond to a show cause order, the Administrator dismissed Docket No. CC-2019-OGR-001-002.<sup>8</sup>
6. Snake River filed its application for the proposed spacing unit in the above-captioned matter on February 24, 2020. *IDL 2/24/20 e-mail confirmation*. Snake River's application included a Declaration of its geophysicist consultant Dr. James Allen, who had previously mapped Idaho

seismic data. *Allen Declaration*, p. 1. On February 28, 2020, Snake River filed a supplemental Declaration of James Allen.

7. On March 2, 2020, pursuant to Idaho Code § 47-328(3)(a), IDL requested additional information to clarify parts of Snake River's application. *IDL 3/2/20 Letter*. The items requested included additional well log information. Additionally, it requested that the applicant Snake River be prepared to present ten additional items at hearing, including structure maps in subsea (SS) depth, pressure test results, porosity and permeability of net pay, thickness of net pay, water saturation of net pay, reservoir temperature, gas analysis and gas oil ratio, gas formation volume factor, estimated original gas in place and expected recovery, and reservoir drive mechanism. Before the hearing, the Department received all the information it requested from Snake River. Rec. one, 17:50.<sup>7</sup>
8. On March 2, 2020, Snake River mailed a copy of the February 24, 2020 application and Dr. Allen's February 28, 2020 Supplemental Declaration by certified mail to all uncommitted mineral interest owners within the proposed spacing unit. *Proof of Mailing 3/4/20*. Snake River also mailed the application by regular mail to all uncommitted owners within the previously established and now expired spacing unit in Docket No. CC-2016-OGR-01-004. *Id.*
9. James Piotrowski filed an objection on behalf of the CAIA Objectors asking the Administrator to deny Snake River's application. CAIA Objectors argued that at least three different spacing units were sought for political reasons and the current unit is not supported by the existing data. They also argued the proposed unit is both over and under inclusive. Finally, CAIA Objectors

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<sup>7</sup> The August 13, 2020 hearing and the October 6, 202 continued hearing were recorded pursuant to IDAPA 04.11.01.651. Hearing transcripts have not been prepared. The agency or any party may have a transcript prepared at its own expense. All references to the hearing recording in this Order will be described by reference to the hearing date, recording number, and the hours, minute(s), and second(s) location on that recording. For example: Rec. #, hh:mm:ss.



assert that Snake River's application fails to reflect existing uses of surface estates and minimize impacts on pre-existing surface uses.

10. Additional objections were received from mineral interest owners listed on pages 2-3. These objections addressed a range of topics, including general opposition to drilling and fracking, as well as concerns about potential environmental harms, potential health and safety risks, private property rights and value, forced pooling, changes in size between the different proposed units, changes in operator ownership and bankruptcy, and the proximity of residential areas to oil and gas development. One objection by Mr. Owen asserted that the spacing unit should be 620 acres, but provided no evidence in support.
11. Written public comments were received by persons who were not listed by Snake River as uncommitted owners within the proposed unit or within the 620 acre larger area. Of those, 13 were in the Fruitland and Payette area, with the remainder living in other counties in Idaho.

- Julie Fugate, Fruitland, ID
- Charles Otte, Fruitland, ID
- Sue Bixby, Fruitland, ID
- Susan Havlina, Fruitland, ID
- David & Linda Mihalic, Fruitland, ID
- Lauren Burnett, Fruitland, ID
- Cookie Atkins, Fruitland, ID
- Dana Gross & Family, Fruitland, ID
- Karen Oltman, Payette, ID
- Sharon Simmons, Payette, ID
- Timothy Lefebvre, Payette, ID
- Jeanne Hurd, Payette, ID
- Joey & Brenda Ishida, Payette, ID
- John & Sally Ponath, Caldwell, ID
- Sherry Gordon, Emmet, ID
- Nancy Wood, Eagle, ID
- Janet Buschert, Eagle, ID
- Elizabeth Roberts, Eagle, ID
- Martin Marzinelli, Eagle, ID
- Shelley Brock-CAIA, Eagle, ID
- Thomas Rogers, Eagle, ID
- James Johnson, Boise, ID

- John Ballard, Boise, ID
- Edwina Allen, Boise, ID
- Richard Llewellyn, Boise, ID
- Helen Yost, Sandpoint, ID
- JoAnn Higby, Address not provided
- Michael England & Kathleen Hartung, Address not provided
- Gail MacDonald, Address not provided

Several commenters asserted that they lived nearby. The commenters did not argue that they should be included in the proposed spacing unit. The comments did not refer to any specific evidence that the spacing unit should be of a different size, shape, or location, but one commenter asked why the area had received applications for different acreage request over the years. A comment was also received that expressed concern that the 300-acre unit did not cover the entire pool. Written public comments addressed a range of topics, including general opposition to drilling and fracking, as well as concerns about potential environmental harms, potential health and safety risks, private property rights, potential liability, forced pooling, the possibility of multiple wells, and the proximity of residential areas to oil and gas development.

12. On October 19, 2017, the Department approved an application for permit to drill the Fallon #1-10, a well located on the temporary spacing unit in Docket No. CC-2016-OGR-01-004.
13. In February 2018, the Fallon #1-10 was directionally drilled to 5432' Measured Depth (MD)<sup>8</sup> and 4995' True Vertical Depth (TVD). The operator at the time, AM Idaho, LLC, ran open hole logs on drill pipe and set and cemented production casing. *Allen Declaration* ¶7. The Fallon #1-10 well was drilled directionally to get to its target because a surface location was not available that allowed it to be drilled vertically. Rec. one. 3:23:25.

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<sup>8</sup> Measured Depth (MD) is the depth measured from top of the well, along the well bore. The MD is not the vertical depth in this case because the well was drilled directionally. Rec. one, 29:50.

14. The petrophysical logs ran for the Fallon # 1-10 included Spectral Gamma Ray, Induction, Neutron/Density Porosity, and Dipole Sonic Logs. *Allen Declaration* ¶8.
15. The Fallon #1-10 encountered Sand B from 3772'-3880'MD (3453'-3545' TVD) with approximately 92' of gross gas pay and 70' of net pay. *Allen Declaration* ¶9; Ex. 4. The depth of Sand B was approximately 80' structurally lower than predrill expectations. *Allen Declaration* ¶12, 13.
16. In March 2018, Sand B was perforated at 3815'-3835' MD. *Allen Declaration* ¶10. Sand B is a structural/stratigraphic trap. *Allen Declaration* ¶11. The Fallon #1-10 tested and confirmed a known natural gas and condensate reservoir. *Application* p. 3 *Allen Declaration* ¶11, 19. The target reservoir sections were fluvial and lacustrine sands in the Poison Creek and Chalk Hills formation of the Idaho group. *Allen Declaration* ¶4.
17. Dr. Allen testified that in his opinion the well in this unit would produce with a water drive based on other nearby wells, including the Kauffman #1-34 and M-L Investments #2-10 Lower Target. *Allen Declaration* ¶13; Rec. one, 46:00. He testified that the Kauffman #1-14 demonstrated water drive as it has gas on top of a large body of water, similar to exists in the Fallon #1-10 well. *Id.* The volume of the reservoir tank may be comparable to the reservoir tank associated with the Kauffman #1-34 well. *Allen Supp. Declaration* ¶4
18. After Snake River reaches the economic limit of the current perforations, it plans to plug back the well and perforate near the top of the sand at 3772'MD, 3453' TVD, -1289' subsea. *Allen Declaration* ¶17. Dr. Allen testified that such a depth would be the structural top of the ultimate producible drainage area in a water driver reservoir. *Id.*
19. Dr. Allen identified the geologic evidence Snake River relied on in proposing the unit. He stated that in determining the possible limits of the reservoir, he looked at all of the geologic

evidence and information from the well itself, including well logs, amount of pay, pressure, porosity, permeability, configuration of the reservoir, pressure data, and the presence of water support, and he then tied that information to the seismic data. Rec. one, 17:20; 20:40.

20. At the August 13 hearing, Dr. Allen testified about Exhibit SR 1 (“SR 1”), a Depth Structure Map for Fallon B Sand, to demonstrate his conclusions about the limits of the reservoir. Rec. one, 23:30. He explained that the map showed the gas-water contact to the northwest of the well bore at 1381 feet subsea, which determines the northwest limits of the pool.<sup>11</sup> He further explained that the gas-water contact line identifies the level at which the hydrocarbons lie on top of water and that there would be no hydrocarbons deeper than that point. Rec. one, 23:00. He testified that the gas-water contact can also be seen in the well log and in the seismic data. Dr. Allen testified that the formation is thickest from the northwest to the southeast and that the southwest boundary of the formation is likely a pinchout somewhere below the gas-water contact because Sand B is not found in the Or-Ida well. Rec. one, 40:34. Dr. Allen testified that there was a limit to the southeast of what Snake River thought the well would produce. Rec. one, 30:30. That limit was where the base of Sand B intersects the highest point perforations could be located. Dr. Allen stated that as you go updip<sup>9</sup> to the southeast the subsea depth of the base of the Sand B intersected the highest point along the well bore that could be perforated: “As you move to the northwest it thins and as you move to the southeast it thins.” Rec. one, 19:40. Dr. Allen inferred this using Exhibit B in his Supplemental Declaration provided on February 28, 2020.

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<sup>9</sup> Dip is the angle of the feature, in this case Sand B. Updip means the formation is trending upward, in this case to the southeast.

21. Dr. Allen referred to Exhibit SR-5, a neutron density log for the Fallon #1-10, which he believed showed the top of the productive Sand at -1289' SS. He testified that it also demonstrated the limit of the reservoir, which was the gas-water contact line. Below the line would be water and above the line would be productive Sand. Rec. one, 33:00; 34:50. He also stated that the gross overall interval for Sand B is with a true vertical thickness of 141 feet. Rec. one, 34:30.
22. The pool is interspersed with claystones and shales that include non-productive zones. Rec. one, 36:30.<sup>10</sup> Snake River's current perforations are located in the center of Sand B's productive zone. Even with additional perforations that are higher up the well bore, the Fallon #1-10 well bore cannot produce above -1289' subsea. Rec. one, 31:45.
23. Dr. Allen testified that SR-2, an Isopach Map for Sand B, demonstrated the thickness of the proposed sand throughout the proposed unit. Rec. one, 39:00. The thickness of Sand B in the isopach map was not the thickness of what Snake River believes will be produced. Rec. one, 41:45. The map shows Sand B thinning to the northeast, identified on SR-2 as the "pinch-out" of Sand B.
24. Dr. Allen used seismic data and tied it to well data from the Fallon #1-10 and the May #1-13. Rec. one, 43:00. Ex. SR-7. Dr. Allen testified that data shows that Sand B continues at least 2.4 miles to the northwest, which provides a water cushion that the gas sits on. Rec. one, 45:30.
25. SR-3 is a net pay isopach map for Sand B created by Dr. Allen. Rec. one, 50:00. He stated that this map showed the reservoir that can be produced. Rec. one, 52:00.

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<sup>10</sup> Net pay is calculated by taking out these small unproductive areas from the final calculations. 36:45.

26. Dr. Allen noted that Snake River only had information about the porosity of the well and estimated the permeability based on other wells in Willow Field, including the ML Investments #2-10. He further testified that these are highly porous rocks and the porosity or permeability would not impose a constraint on the drainage of the well; rather, his opinion was that the porosity and permeability in this well was excellent. Rec. one, 55:00.<sup>11</sup>
27. Dr. Allen explained three additional exhibits. SR-8 was an analysis of the gas samples tested from the Fallon #1-10, which showed that (1) the gas from the well was almost completely hydrocarbons and (2) the BTUs were over 1200. Rec. one, 58:00. SR-10 contained the results from a condensate sample (which is the liquid portion of the reservoir). Rec. one, 1:00:00. Based on these exhibits, the Administrator finds the well is primarily a gas well.
28. Dr. Allen testified that he believed that the well will produce at the rate 3.84 MMCF/day and condensate at about 100 bbl./day. Rec. one, 1:04:00. SR-11.
29. Dr. Allen testified that his opinion was that the proposed spacing unit would result in the efficient and economical development of the pool as a whole. Also, his opinion was that the proposed spacing unit is not smaller than the maximum area that can be efficiently and economically drained by one well. Rec. one, 1:20:00<sup>12</sup>; *Allen Declaration* ¶ 18.
30. Upon questioning from Mr. Piotrowski, Dr. Allen testified that the Fallon #1-10's producible zones are below the top of Sand B and a well drilled higher in Sand B could produce more of

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<sup>11</sup> Exhibit SR-4 demonstrated the porosity and permeability of Sand B. Porosity is the holes in the rock, or the space in the rock where liquids or hydrocarbons exist. Permeability is the connections between the holes, which is where liquids or hydrocarbons flow through.

<sup>12</sup> The audio/video recording is available for viewing at the IDL YouTube channel.

the reservoir. Rec. one, 1:24:00. Dr. Allen testified that there can be wells drilled elsewhere in the pool that could drain the pool more efficiently. Rec. one, 1:27:00.

31. Mr. Thum independently evaluated the well log information from the Fallon #1-10. Rec. one, 2:20:00, IDL Ex. 1, IDL 005. He determined that a wet or transition zone existed and found it was within ten feet of what Snake River had determined. Rec. one, 2:20:14.
32. The Fallon #1-10 is the only well that has encountered Sand B. Rec. one, 2:16:33
33. Based on updated geologic data, Snake River has requested a change in the boundary of the proposed spacing unit that differs from Docket No. CC-2016-OGR-01-004's previous spacing unit. Rec. one, 2:17:11. IDL Am. Ex. 1, IDL004.
34. Mr. Thum testified that no production can occur above the top of the perforations. The well's top perforation is not the top of Sand B, but instead just the top of the highest possible perforations in the productive zone of the well bore, which would be located at -1289' SS. Rec. 2:28:00. Snake River will be limited to what is below the perforations for purposes of production. Mr. Thum testified that the proposed unit covers the portion of the pool that can be drained by the Fallon #1-10. Rec. one, 3:12:00; IDL Exhibit 1, IDL008.
35. With reference to Exhibit SR 3, Net Pay Isopach Map for Fallon B Sand, Mr. Thum stated that the "contours don't represent any depth, they represent a zone within that well that is indicated as possibly productive and these counters indicate the areas that can produce within the Fallon 1-10." Rec. one, 2:39:00. He stated that an Isopach map is created by taking the sand map and the structure map and basically subtracting those. The Net Pay Isopach Map is a thickness map.
36. Mr. Thum testified that leaving hydrocarbons in the ground is not necessarily known as waste of hydrocarbons because there are secondary and tertiary recovery methods that allow someone to come back and recover when the economics are there.

37. Mr. Thum testified that his opinion was that the 300-acre unit proposed would be appropriate for the proposed spacing unit. IDL Am. Ex. 1, IDL 012; Rec. one, 2:32:00. His opinion was that the northwest boundary of the hydrocarbons was established through the gas-water contact, the geometry of Sand B, and the drilling angle. Rec. one, 2:30:00. He believed that regardless of the water-drive's strength, as production occurs water will encroach and limit how much Snake River can produce the well. While this is a small amount of data compared to other fields around the country, his opinion was that there was enough information to support the request. Rec. one, 2:33:00. Mr. Thum also requested that this be established as a permanent unit because there is enough geologic data. Rec. one, 2:35:09. IDL also requested production data on a three-month interval to determine spacing in the Payette Basin going forward. Rec. one, 2:36:00.
38. The public witnesses that testified at the August 13, 2020 hearing's public comment session were: Linda Dernoncourt, Roxie Tolbert, Susan Havlina, Shelley Brock on behalf of CAIA, Joey Ishida, Dana Gross, Sharon Simmons, Julie Fugate, and Sue Bixby. The public witnesses testified in opposition to the application and covered many subjects, including the risk of potential environmental harms, potential liability, the changes in the area covered by the spacing application, the proximity of residential areas to oil and gas development, and the concern that a smaller unit will result in more wells.
39. At the October 6, 2020 continued hearing, Dr. Allen testified that he made an error in interpreting the seismic data by incorrectly using the Barlow #1-14 time-depth chart in calculating depths instead of the Fallon #1-10's time depth chart. This error led Dr. Allen to place the Sand B layer at the wrong depth subsea on the structure and isopach maps, which skewed the results. SR Ex.12. Once Mr. Allen used the correct depth chart, the error was



resolved and the structure and isopach maps display results consistent with Dr. Allen's testimony.

40. Parties did not contest the revisions provided in SR Ex. 12. CAIA Objectors stated that the revised SR Ex. 12 addressed the location of the southern boundary adequately, Rec. two, 1:22:00, but instead argued that it did not address the full extent of hydrocarbons within Sand B. Rec. two, 1:23:00.
41. The Administrator's *Continuance* requested evidence clarifying the top, bottom, and thicknesses of Sand B addressed towards a comprehensive assessment of the pool. Snake River supplied that evidence at the continued hearing when Dr. Allen explained his initial use of the incorrect well depth chart, and provided corrected data showing the correct structural bottom map and subsea depths that clarified the top, bottom, and thickness of Sand B. SR. Ex. 12.
42. The Administrator's *Continuance* also requested evidence regarding where the -1289' subsea perforation would drain in relation to the pool. At the continued hearing, Dr. Allen presented and discussed SR. Ex. 12, which provided that corrected information indicating the drainage of the well in relation to the pool. SR. Ex. 12 p. 7. This drainage area is within the proposed 300-acre unit. The highest possible perforation within the Sand B along the Fallon #1-10 well bore is -1289' subsea. Rec. one, 47:00. Based on that testimony, the Administrator finds that when the water driving the gas pool upward reached this point the gas above it would become inaccessible.
43. Additionally, the *Continuance* requested evidence addressing what percentage of hydrocarbons are below the transition line of the gas-water contact. Dr. Allen testified that this is a water drive and there would be little if any hydrocarbons below the transition line of the water/gas-water contact. Rec. two, 43:00. Based on that testimony, the Administrator finds that

the hydrocarbons recovered would be negligible after the gas-water contact reaches the top of the highest perforation along the Fallon #1-10 wellbore in Sand B.

44. Dr. Allen testified the drilling of this well will not drain the other areas of the Sand B. Rec. two, 47:30. Further, there is only one well into the Sand B, and the only way to determine the extent of Sand B is through further well development and points of control with additional well control from additional wells. Rec two, 48:00.
45. This *Findings of Fact, Conclusions of Law, and Order* incorporates by reference the entire record in this matter and accompanying exhibits, comments from mineral owners and public witnesses, correspondence from IDL personnel, notices, pleadings, responses from the uncommitted mineral interest owners within the proposed unit, and the hearing recordings.

### CONCLUSIONS OF LAW AND ANALYSIS

#### A. The Administrator has jurisdiction over this matter.

1. The Administrator is authorized to conduct this hearing pursuant to Idaho Code §§ 47-318 and 47-328. This proceeding is governed by the Idaho Oil and Gas Conservation Act (Chapter 3, title 47, Idaho Code); the Idaho Administrative Procedure Act (Chapter 52, title 67, Idaho Code); Idaho Rules of Administrative Procedure of the Attorney General (IDAPA 04.11.01), to the extent that the Rules of Administrative Procedure are not superseded by Oil and Gas Conservation Act; and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho (IDAPA 20.07.02).
2. The Idaho Oil and Gas Conservation Act applies to all matters affecting oil and gas development on all lands located in the state of Idaho. Idaho Code § 47-313.
3. The Idaho Oil and Gas Conservation Commission (“Commission”) is “authorized to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative

rights, to govern the practice and procedure before the commission, and otherwise to administer [the Act].” Idaho Code § 47-315(8). IDL is the administrative instrumentality of the Commission and the Oil and Gas Administrator has authority over these proceedings pursuant to Idaho Code §§ 47-314(7), 47-318, and 47-328(3).

#### **B. Snake River bears the burden of proof**

1. The Applicant generally bears the burden of proof in this matter. “The customary common law rule that the moving party has the burden of proof – including not only the burden of going forward but also the burden of persuasion – is generally observed in administrative hearings.” *Intermountain Health Care, Inc. v. Bd. of County Comm’rs of Blaine County*, 107 Idaho 248, 251, 688 P.2d 260, 263 (Ct. App. 1984) *rev’d on other grounds* 109 Idaho 299, 707 P.2d 410 (1985).
2. Under Idaho law, “preponderance of the evidence” is generally the applicable standard for administrative proceedings, unless the Idaho Supreme Court or legislature has said otherwise. *N. Frontiers, Inc. v. State ex rel. Cade*, 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). “A preponderance of the evidence means that when weighing all of the evidence in the record, the evidence on which the finder of fact relies is more probably true than not.” *Oxley v. Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481, 80 P.3d 1077, 1082 (2003).
3. A court shall affirm an agency’s action unless the decision is “not supported by substantial evidence on the record as a whole; or [the decision] is arbitrary, capricious, or an abuse of discretion. Idaho Code § 67-5279(3)(d)-(e).

#### **C. CAIA / Parties**

1. Mr. Piotrowski identified the CAIA members within the proposed unit as Judith and Jimmie Hicks, Karen Oltman, Allen and Glenda Grace, and Shady River, LLC. Mr. Piotrowski identified the following clients/owners as outside of the proposed spacing unit but within a possibly appropriate spacing unit that he argues will be drained by this unit as Carrie Grant,

Shannon Benedict, Donald and Phyllis Gruell, Sharon Simmons, Lowell and Geraldine Davis, James and Beverly Smith, and Dana Harris. No evidence was submitted in the record to support these assertions.

2. Mr. Piotrowski did not indicate he was appearing on behalf of Sandra Dunlap at hearing. Rec. one 9:50; Rec. two, 6:24.
3. After inquiry at the prehearing conference from the Administrator to Mr. Piotrowski about whether his clients outside the proposed unit intended to intervene, Mr. Piotrowski indicated that those mineral interest owners that were outside of the proposed spacing unit were granted intervention in a similar application in Docket No. CC-2019-OGR-01-002, but he would review the record and may file an intervention on their behalf in this matter. *Prehearing Order and Notice of Hearing* p. 2.
4. The *Prehearing Order and Notice of Hearing* provided: “Any late motions to intervene must be filed in accordance with IDAPA 04.11.01.350-354. Motions to intervene not timely filed must state a substantial reason for delay. IDAPA 04.11.01.352.”
5. Because the owners outside the proposed spacing unit are within an area potentially affected by the proposed unit, the Administrator is, in this particular instance, and without setting precedent, exercising his discretion to allow their participation without a formal motion to intervene, and leaves for future decision the circumstances under which a formal motion to intervene may be required for mineral interest owners outside a proposed spacing unit.

**D. The proposed spacing unit is established as a spacing unit under Idaho Code § 47-318.**

1. A spacing unit order in Idaho “shall specify the size, shape and location of the units, which shall be such as will, in the opinion of the department, result in the efficient and economical development of the pool as a whole.” In addition, “[e]xcept where circumstances, geologic or

otherwise, affecting the orderly development of a pool reasonably require . . . the size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well.” Idaho Code § 47-318(2). Thus, Snake River must show sufficient evidence to establish (1) the unit will result in the efficient and economical development of the pool as a whole and (2) that the proposed spacing unit is not smaller than the maximum area that can be efficiently and economically drained by one well, unless there is an exception.

2. In this case, to determine whether the proposed spacing unit will result in the “efficient and economical development of the pool as a whole,” the Administrator must evaluate evidence of both the efficiency and economics of developing the pool. In other words, evaluating “efficiency” of developing the pool alone or the “economics” of developing the pool alone would not follow the statute. These two quantifiers cannot be separated. Used together the words “efficient and economical” includes minimizing waste, preventing the drilling of unnecessary wells and incurring unnecessary expense while maintaining the economic development of the pool.

The location of a well further updip of the Fallon #1-10 may drain a larger area and could result in the “more efficient” draining of this portion of the Sand B pool because a larger area of Sand B could be accessed. Rec. two, 52:50. However the Fallon #1-10 well can still drain the spacing unit efficiently. The cost of drilling a well further updip of the Fallon #1-10 would be significant compared to the cost of an existing well. Dr. Allen indicated that the Fallon #1-10 reservoir is 10% bigger than the Kauffman #1-34, and the Fallon #1-10 reservoir is estimated to be over 200,000-acre feet. Rec. one, 49:20. 200,000-acre feet is 87,120 MCF. The well test for the Fallon #1-10 showed that the well would produce very well at a high rate

of approximately 3700 MCFD. Rec. one, 1:04:20. This indicates the well will drain the pay zone of the well efficiently. Further, the understanding of the extent of the Sand B could be increased through the drilling of additional wells to determine the quality of the sand in other areas, impact of the faults, and thickness of Sand B. Rec. two, 1:30:00.

Snake River argued the Fallon #1-10 was an investment of several million dollars. Rec. two, 1:29:15. In the Administrator's experience a well to the depth proposed to access the Sand B pool could cost upwards of two million dollars, with additional cost possible after drilling begins. The existing Fallon #1-10 well is already drilled and paid for, Rec. two, 1:29:00, which makes it a more economic well for this pool than drilling an entirely new well to access the hydrocarbons in Sand B that cannot be extracted by the Fallon #1-10. Requiring an additional new well for this pool to begin to be developed could result in a pool development plan that is economically unreasonable, and the resource not being developed. The economics of production is dependent on the relevant market value of Idaho hydrocarbons. Rec. two, 59:00. Increasing costs of production through the drilling of a well to be used instead of the Fallon #1-10 would negate the value gained by this well. Given that the well already exists in the pool and would produce at a high rate, the spacing unit will result in the efficient and economic development of the pool as a whole.

CAIA Objectors argue that the spacing order would not result in the "*most* efficient and economical development of the pool as a whole" because the pool extends beyond the limits of the current well. Rec. two, 1:24:35. However, the word "most" does not appear in statute. Instead, Idaho Code § 47-318(2) simply states that it must result in "efficient and economical development of the pool as a whole."

3. As to whether the proposed spacing unit is not smaller than the maximum area that can be efficiently and economically drained by one well, the Administrator must have sufficient information illustrating the geographic drainage area.

(a) As to the northwest boundaries of the proposed unit, based on Dr. Allen and Mr. Thum's testimony about the well logs, nearby wells, and other geologic data presented at hearing, the Administrator determines the Sand B pool is a water drive system with a gas-water contact that will limit the boundaries of the pool to the northwest. After reviewing all of the evidence, the Administrator determined that proposed northwest boundary of the pool is the gas-water contact point and falls with the proposed unit boundary.

(b) As to the proposed southeast boundary of the pool, during the continued hearing, Dr. Allen's testimony and Exhibit SR 12 resolved the inconsistencies between the Administrator's calculations and Snake River's previous exhibits and provided clarity on the depth and thickness of Sand B within this spacing unit. Exhibit SR 12, slide 12, displayed the structural top of Sand B. To the south, this top is above the -1289' subsea top of the highest potential perforation of the well. This indicates that the Sand B continues to the south beyond the unit boundary. However, the area above -1289' subsea cannot be drained by the Fallon #1-10 because the -1289' subsea is above the highest potential perforation of the Fallon #1-10 well bore within Sand B. The -1289' subsea depth sets the southern boundary of the drainage area for the Fallon #1-10, but based on the testimony at hearing, an additional portion of the Sand B pool likely extends beyond the area drained by the Fallon #1-10.

4. Spacing units can be smaller than the maximum area that can be efficiently and economically drained by one well when “circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require.” The Fallon #1-10 well was drilled directionally to get to its target because a surface location was not available that allowed it to be drilled vertically. Rec. one, 3:23:25. As discussed above, the existing well that can produce Sand B right now is a circumstance that would affect orderly development of the pool. It is neither efficient or economic to require a well be drilled in a different area at an additional cost and thereby abandon the large amount of capital invested. Rec. one, 3:38:00. Further, the geologic data is limited, as the Fallon #1-10 is the only well drilled to Sand B in this area. Additional wells could provide additional data used to understand the extent and thickness of Sand B and the impact of faults in the area. Rec. two, 1:30:00. All of these conditions affect orderly development of the pool. While the extent of area drained by the Fallon #1-10 is defined, the extent of Sand B is not. More information is needed to determine the orderly development of the pool as a whole. Thus, circumstances exist that reasonably require that this spacing unit be smaller than the maximum area that can be efficiently and economically drained by one well.
5. CAIA Objectors assert that Idaho Code § 47-318 requires the Administrator to establish spacing units for each “pool as a whole,” which they assert means spacing units must be developed for the *entire* pool and not just the portion of the pool the Fallon #1-10 drains. Rec. one, 3:22:55. Further, CAIA Objectors argue that while an order establishing a spacing unit shall be granted for each well, it doesn’t necessarily need to be the Fallon #1-10 well because the geology should define the unit, not the well location. Rec one, 3:31:30.

Based on Dr. Allen and Mr. Thum’s testimony, Sand B is a pool. As articulated above, the structure maps indicate that it is likely that Sand B extends beyond the drainage area of the



Fallon #1-10 because the pool continues updip from the Fallon #1-10's -1289 subsea drainage area. While the area drained by the Fallon #1-10 is defined, the extent of the entire Sand B is not. Thus, the Administrator does not have sufficient information to establish additional spacing units at this time.

6. CAIA Objectors also argue the unit does not follow the exact outline of the underground pool. However, the Idaho Oil and Gas Conservation Act requires “any unit established by the department shall be geographic.” Idaho Code § 47-318(2). Boundaries of such units “shall be described in accordance with the public land survey system.” *Id.* The public land survey system uses rectangular surveys, therefore a proposed unit should be rectilinear and sized appropriately using those rectangular shapes and boundary lines to incorporate the area that can be effectively drained by one well. The law does not mandate that the spacing unit follow the exact outline of the pool, with all its curves and shapes. In this case, the proposed spacing unit is geographic because it is drawn using the boundaries of the public land survey system.
7. Idaho Code § 47-318(5) provides: “An order establishing spacing units for a pool shall cover all lands determined or believed to be underlaid by such pool.” Further, Idaho Code § 47-318(5) expressly allows a pool to be “divided into zones,” and the Administrator can establish a spacing unit for each zone “if necessary to prevent or assist in preventing waste of oil and gas, to avoid drilling unnecessary wells, to protect correlative rights or to facilitate production through the use of innovative drilling and completion methods.” Put simply, Idaho Code § 47-318(5) provides that a spacing order should cover the entire determined pool and can allow for multiple units. In some circumstances this may be different than field wide spacing because field-wide spacing can be “the general area underlaid by one (1) or more pools.” Idaho Code § 47-318(5) is instead directed at one pool.

8. CAIA Objectors argue Snake River's application does not comply with Idaho Code § 47-318(5) because it does not cover all lands underlaid by the pool as the Sand B extends further to the southeast than the proposed spacing unit. Rec. one, 3:32:00. Alternatively, they argue that if there is insufficient evidence to determine spacing units for the pool at this time, then the application should be denied or further continued until spacing units for the pool can be defined. Rec. one, 1:24:00.
9. In this case, the well logs, testimony from geologists James Allen and James Thum, and additional geologic evidence in the record all indicates that a pool called "Sand B" exists. While the data provided for the Sand B pool is increasing, the total extent of the pool is not yet known based on the current data. Mr. Allen stated that the geologic information of the well, tied to the seismic data, and well testing data is used to determine the extent of the well in every direction. Rec. one, 17:36. Amended IDL Ex. 001. Dr. Allen's testimony confirmed that the Sand B pool is likely larger than the drainage area for the Fallon #1-10. Rec. two, 47:00. However, Dr. Allen also indicated that there is insufficient information to determine appropriate spacing for the rest of Sand B at this time. Rec. two, 48:00. Production data from the Fallon #1-10 and any additional well control data further updip combined with seismic data would help determine the extent of the Sand B pool. This is the type of data needed to allow the administrator to form a belief about the extent of Sand B. The Fallon #1-10 is the only well drilled into this pool, and the Administrator concludes there is not enough information available regarding how far Sand B reaches, how far it would drain elsewhere, and other factors needed to recommend the size, shape, and location of additional spacing units for Sand B. Therefore, the Administrator does not have sufficient information to determine or form a belief

about the total extent of Sand B and will defer establishing spacing units that deviate from state-wide spacing until further information is available from the Fallon #1-10.

10. While some seismic data exists for the area, the size, shape and location of additional spacing units and the location of additional wells will depend on the data obtained from the Fallon #1-10. Rec. two, 48:43. Localized development of the pool beginning with this spacing unit can provide valuable information leading to additional data and a more accurate data set for Sand B. That data could then be used to modify this spacing order in accordance with Idaho Code § 47-318(5) or request additional spacing units with size, shape, and locations based on data sufficient to determine the area drained. Based on Idaho Code § 47-318(5), the Administrator therefore retains authority to re-open the proceeding for the purpose of modifying the order to establish additional spacing units once sufficient information is available to determine or form a belief regarding the extent of the Sand B pool.
11. The general rule about the size and shape of spacing units is that “spacing units shall be of approximately uniform size and shape for the entire pool.” Idaho Code § 47-318(3). However, exceptions to that uniform size and shape are possible “where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require.” Idaho Code § 47-318(3). Here, no party argued that the 300-acre unit size is inappropriate for a spacing unit drained by the Fallon #1-10. Also, a 300-acre unit is appropriate because the geologic extent of area drained by the Fallon #1-10 is well defined on all sides. There are faults to the northeast and southwest that seal the drainage area, the gas-water contact to the northwest, and the drainage area to the southeast is established by the well perforations in the Fallon #1-10 at -1289’ subsea. This limits the extent drained by the Fallon #1-10. While 640 acre units made of four quarter sections are overall the uniform size and shape of spacing units in this area of

Idaho, this is the first spacing unit for Sand B. These circumstances reasonably require that this unit be of a size and shape that includes those lands determined to be drained by this well and best protects the correlative rights of mineral owners in the spacing unit.

12. Idaho law requires:

An order establishing spacing units shall direct that no more than one (1) well shall be drilled to and produced from the common source of supply on any unit, and shall specify the location for the drilling of a well thereon, in accordance with a reasonably uniform spacing pattern, with necessary exceptions for wells drilled or drilling at the time of the filing of the application.

Idaho Code § 47-318(4). Thus, Idaho Code § 47-318(4)'s mandate as to a spacing order is twofold: (1) no more than one well be drilled to and produced from the common source of supply and (2) specify the location for drilling on the proposed spacing unit.

13. As to Idaho Code § 47-318(4)'s mandate for one well to the common source of supply, Snake River proposes only one well to the source of supply: "Sand B." *Allen Declaration* ¶18. No evidence was offered into the record that Snake River seeks authorization to drill and produce a different source of supply for this spacing unit. Thus, the Administrator concludes that Sand B is the common source of supply for this proposed unit and that only one (1) well may be drilled to and produced from Sand B within this spacing unit.

14. As to the location of a well, Snake River's application requested that the Administrator "approve the Fallon 1-10 well in its existing location." *Application* p. 2. However, the Fallon #1-10 well's location was already approved when the Application for Permit to Drill that well was approved on October 19, 2017 pursuant to the procedures set forth in Idaho Code § 47-316 and the rules in IDAPA 20.07.02. Specifically, an Application for Permit to Drill requires "an accurate plat showing the location of the proposed well with reference to the nearest lines of an established public survey." IDAPA 20.07.02.200.04.a. Indeed, a permit to drill is when

a specific location for a well is granted. Thus, the location of the well was specified and granted in October 19, 2017 and is not again “approved” in this spacing order.

15. Idaho Code § 47-318(4)’s requirement to “specify the location of a well” does not refer to a specific surface and bottom hole location. Instead, the location requirements are the setbacks from the unit boundaries and from other nearby wells that may exist in other units. Idaho Code § 47-317 provides minimum setbacks for statewide drilling units that exist in the absence of an order otherwise, but there are no minimum setbacks prescribed for a spacing order under Idaho Code § 47-318. Thus, the distances a well can be located from the exterior boundaries of the unit is within the Administrator’s discretion. Here, the proposed unit is between the sizes of a 160-acre drilling unit and a 640-acre drilling unit. For drilling units, a vertical gas well on a one hundred sixty (160) acre drilling unit shall have a minimum setback of three hundred thirty (330) feet to the exterior boundaries of the quarter section. Idaho Code § 47-317 (3)(b). A vertical gas well located on a six hundred forty (640) acre drilling unit shall have a minimum setback of six hundred sixty (660) feet to the exterior boundaries of the governmental section. Further, a horizontal well would also have setbacks of 660 feet from the unit boundaries. Idaho Code § 47-317 (3)(c). Because this unit is larger than the smaller 160-acre unit and smaller than a bigger 640-acre unit, the Administrator determines the appropriate setbacks for the completed interval are four hundred ninety-five (495) feet from the governmental section line.

### **ORDER**

Based on the reasons stated above, pursuant to Idaho Code § 47-318 and 47-328 and based on the evidence in the record, the Administrator HEREBY GRANTS the Spacing Request in Docket No. CC-2020-OGR-01-001 according to the terms and conditions requested by the Applicants as modified by the terms and conditions contained herein.

- A. This spacing unit is established for the drainage area of the existing Fallon #1-10 and the Fallon #1-10 is the only well authorized to drill to Sand B in this spacing unit.
- B. The location of the Fallon #1-10's producing interval setback within this spacing unit may not be located closer than 495 feet from the unit's boundary.

### **PROCEDURES AND REVIEW**

Pursuant to Idaho Code § 47-328(3)(e), the above-captioned order shall not be subject to any motion to reconsider or further review, except for appeal to the Idaho Oil and Gas Conservation Commission. Pursuant to Idaho Code § 47-328(4), this order may be appealed to the Commission by the applicant or any owner who filed an objection or other response to the application within the time required. An appeal must be filed with the Administrator within fourteen (14) calendar days of the date of issuance of the Administrator's written decision. The date of issuance shall be November 8, 2020 which is three (3) calendar days after the Administrator deposits the decision in the U.S. mail. Such appeal shall include the reasons and authority for the appeal and shall identify any facts in the record supporting the appeal. Any person appealing shall serve a copy of the appeal materials on any other person who participated in the proceedings below, by certified mail, or by personal service. Any person who participated in the proceeding below may file a response to the appeal within five (5) business days of service of a copy of the appeal materials. The appellant shall provide the Administrator with proof of service of the appeal materials on other persons.

If no appeal is filed within the required time, this decision shall become a final order. Idaho Code § 47-328(6).

Dated this 5th day of November 2020.

A handwritten signature in black ink that reads "Mick Thomas". The signature is written in a cursive style with a large, prominent initial "M".

---

RICHARD "MICK" THOMAS

Minerals, Public Trust, Oil & Gas Division Administrator

## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November 2020, I caused to be served a true and correct copy of the following item in Docket No: CC-2020-OGR-01-001: *Findings of Fact, Conclusions of Law, and Order*, by regular mail unless indicated otherwise and addressed to the following:

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