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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of Snake River Oil and Gas, LLC for an Order Establishing a Spacing Unit Consisting of the NE ¼ of Section 9 and the NW ¼ of Section 10, Township 8 North, Range 5 West, Payette County, Idaho

Snake River Oil and Gas, LLC, Applicant.

Docket No. CC-2024-OGR-01-001

OAH Case No. 24-320-OG-01

**PREHEARING STATEMENT**

The Idaho Department of Lands (“IDL”), by and through the Office of the Attorney General, its counsel of record, and pursuant to the Scheduling Order dated May 29, 2024, hereby submits the following Prehearing Statement for the contested case hearing set for Thursday, June 13, 2024 at 1:00 p.m. MST in this matter.

**I. LEGAL BACKGROUND**

**A. Procedural requirements for an application to establish a spacing unit.**

Idaho Code § 47-328(3) provides procedural requirements for an application to establish a spacing unit. Specifically, that section details to whom and how the applicant must provide notice

of the application and who may raise objections or responses to that application. An applicant must, within 7 days of filing the application, “send a copy of the application and supporting documents to all known and located uncommitted mineral interest owners, all working interest owners within the proposed spacing unit, and the respective city or county where the proposed unit is located.” Idaho Code § 47-328(3)(b). That notice must also include the prospective hearing date on the application. *Id.* Finally, once an application has been filed, “[o]nly an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file at least fourteen (14) days before the hearing date provided in the notice.” *Id.* An owner is defined as “the person who has the right to drill into and produce from a pool and to appropriate the oil and gas that he produces therefrom[.]” Idaho Code § 47-310(27). Uncommitted owner is further defined as “an owner who is not leased or otherwise contractually obligated to the operator.” Idaho Code § 47-310(35).

**B. Substantive requirements for establishing a spacing unit.**

Pursuant to the Idaho Oil and Gas Conservation Act (“the Act”), the Idaho Oil and Gas Conservation Commission (“OGCC”), through IDL as its administrative instrumentality, has the authority and duty to “regulate the exploration for and production of oil and gas, to prevent waste of oil and gas, [and] to protect correlative rights.” Idaho Code §§ 47-314(6), 47-315(1). Prevention of waste is paramount under the Act. Idaho Code § 47-315(1). As it relates to gas production, waste is defined as “production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil and gas that might ultimately be produced[.]” Idaho Code § 47-310(36)(a). A correlative right is defined as “the opportunity of each owner in a pool to produce his just and equitable share of oil and gas in a pool without waste.” Idaho Code § 47-310(8).

Along with this general authority, the OGCC has the specific authority to regulate the spacing and location of oil and gas wells. Idaho Code § 47-315(6)(c). Establishing spacing units is an integral component of oil and gas regulation, as it is used to prevent the drilling of unnecessary wells, assist in the prevention of waste, and protect correlative rights. Idaho Code § 47-317(1) (listing the bases for which a spacing unit or units may be established). Spacing curbs economic waste by preventing the expense of drilling unnecessary wells and curbs physical waste by preventing adverse changes to reservoir dynamics caused by excessive rates of withdrawal from multiple wells. WILLIAMS & MEYERS, MANUAL OF OIL & GAS TERMS 1135-36 (15th ed. 2012).

Spacing units are defined in reference to subsurface reserves of hydrocarbons referred to as “pools.” *See* Idaho Code § 47-317(1)-(2). A pool is defined as “an underground reservoir containing a common accumulation of oil or gas, or both.” Idaho Code § 47-310(29). Additionally, “each zone of a structure that is completely separated from any other zone in the same structure is a pool.” *Id.* A spacing unit, in turn, must be “the area that can efficiently and economically be drained by one (1) well for the orderly development of the pool.” Idaho Code § 47-317(2). In the absence of a spacing order to the contrary, the statutory default size for a gas well spacing unit is 640 acres. Idaho Code § 47-317(3)(b). However, the statutory defaults may be deviated from if geologic evidence establishes an alternative size for a spacing unit. In that case, an order establishing a spacing unit must “specify the location, size, and shape of the unit, which, in the opinion of the department, shall result in the efficient and economical development of the pool as a whole.” *Id.* The location, size, and shape of a spacing unit must be described using the public land survey system. *Id.*

To summarize and paraphrase, an appropriate spacing unit should be an area of land that, based on the evidence presented, will be sufficient for one well to efficiently and economically

drain hydrocarbons from an identifiable underground pool of oil and/or gas. As one oil and gas law treatise describes it, the process of establishing a spacing unit “relates solely to physical concerns about efficient production; it is a determination that is based primarily on engineering and geological facts[.]” KRAMER & MARTIN, THE LAW OF POOLING AND UNITIZATION, § 5.03 (3d ed. 2016).

## II. FACTUAL BACKGROUND

On April 29, 2024, Snake River Oil and Gas, LLC (“Snake River”) applied to IDL for an order establishing a spacing unit consisting of the NE ¼ of Section 9 and the NW ¼ of Section 10, Township 8 North, Range 5 West, Payette County, Idaho. On May 2, 2024, pursuant to its authority under Idaho Code § 47-328(3)(a), IDL responded to Snake River and requested additional clarifying materials required to evaluate the application. Snake River responded with the requested materials on May 3, 2024. Finally, on May 8, 2024, Snake River filed certified mailing receipts showing that it had sent the revised application materials and notice of prospective hearing date to uncommitted owners within the proposed spacing unit. Snake River also sent notice to uncommitted owners adjacent to the proposed spacing unit.

Snake River’s updated application identifies a prospective gas pool consisting of “Sands A and B,” which are portions of two geologic formations within the larger “Idaho Group” Rev. App. at 2; Declaration of David M. Smith ¶¶11-12 [hereinafter “Smith Dec.”]. Snake River has submitted geologic evidence showing the probable existence of hydrocarbons and the likely extent of the productive limits of the pool, including a seismic amplitude map of the area and seismic profiles for the proposed spacing unit. Smith Dec., Exs. A – D. Based on this data, Snake River proposes a non-standard 320-acre spacing unit as the “best fit to cover lands underlain by the

presumed pool” and that the unit is “not smaller than the maximum area that could be efficiently and effectively drained by one well.” Smith Dec. ¶ 18.

IDL received two objections to the spacing application. The first, filed on May 15, 2024, came from the City of Fruitland. The Second, filed May 23, 2024, came from Karen Oltman, an uncommitted mineral interest owner adjacent to the proposed unit, and Citizens Allied for Integrity and Accountability (“CAIA”).<sup>1</sup>

On May 24, 2024, the parties attended a scheduling conference and agreed to a hearing date as well as deadlines for prehearing disclosures and witness and exhibit lists. The Hearing Officer issued a Scheduling Order on May 29, 2024, setting a prehearing conference date of June 10, 2024, and a hearing and public comment date of June 13, 2024.

### III. STATEMENT OF POSITION

IDL’s position is that Snake River’s application, as revised, should be granted. Unless relevant conflicting evidence or testimony is presented at the June 13, 2024 evidentiary hearing, the application, attached declarations, and exhibits present sufficient evidence to conclude that the proposed spacing unit is (i) underlaid by a discrete gas pool that will (ii) be efficiently and economically drained by the proposed well targeting Sands A and B.

#### **A. The geologic evidence suggests the existence of a discrete hydrocarbon pool consisting of target Sands A and B.**

The information provided by Snake River presents a reasonable geologic interpretation of the presence and extent of the possible hydrocarbon accumulation within the proposed unit. The

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<sup>1</sup> In CAIA’s objection it does not claim to be an uncommitted mineral owner in the affected unit, casting doubt on its ability to raise an objection to this application. *See* Idaho Code § 47-320(3)(b). Without having reviewed any prehearing disclosures or exhibits from CAIA that may shed light on the subject, IDL reserves the right to raise the issue of CAIA’s lack of status as an uncommitted owner and ability to participate in these proceedings as an objector.

geologic interpretation is also consistent with known hydrocarbon accumulations in Harmon Field and its productive hydrocarbon pools. For instance, target Sand B is found productive approximately 2500 feet due south in the Fallon #1-10 well (USWN 11-075-20032) and has produced 1.197 billion cubic feet (“BCF”) of gas and 19,869 barrels of condensate<sup>2</sup> (“BC”) since February 2020. IDL-02. Sand A was encountered in the Fallon #1-10 at approximately 3658 feet measured depth. Sand A was not tested in the Fallon #1-10, but formation resistivity, neutron porosity, and density porosity well curves through this interval exhibit a similar response to Sand B and is therefore expected to also contain producible hydrocarbons.<sup>3</sup> IDL-03.

**B. The geologic evidence suggests that the productive limits of the pool are within the boundaries of the proposed spacing unit.**

The seismic amplitude map included in Snake River’s Application demonstrates a probable areal extent of the productive limits of Sand B. Smith Dec., Ex. C. Based on the seismic profile amplitudes of Sand A provided, it is likely that the productive limits of Sand A are approximately the same as Sand B which occurs an estimated 122 vertical feet above the top of Sand B. Smith Dec., Exs. A and D. In other words, Sands A and B likely share substantially similar productive limits and, importantly, the extent of those productive limits lay within the boundaries of the proposed 320-acre spacing unit.

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<sup>2</sup> Condensate is defined as “light liquid hydrocarbons that occur as a gas under initial subsurface conditions that condense into a liquid with a decrease in pressure below the dew point during production in the reservoir and at the surface, or only at the surface.” Idaho Code § 47-310(6). For purposes of the Act, condensate is considered a form of oil. Idaho Code § 47-310(22) (defining “oil” to include “condensate recovered or extracted from gas”).

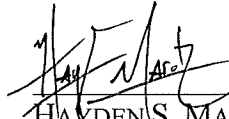
<sup>3</sup> Generally speaking, formation resistivity, neutron porosity and density porosity are measurements that are used in combination to infer the presence of hydrocarbons within a geologic formation. Here, the similarity between measurements for Sand B, a known hydrocarbon-producing formation, and Sand A indicate the likely presence of hydrocarbons within Sand A.

#### IV. CONCLUSION

Snake River's application should be granted. The geologic evidence presented establishes a likely pool of hydrocarbons in the Sand A and Sand B formations. The probable productive limits of those formations are substantially the same and are entirely within the proposed 320-acre spacing unit consisting of the NE ¼ of Section 9 and the NW ¼ of Section 10, Township 8 North, Range 5 West, Payette County, Idaho. A single well located in this proposed spacing unit would efficiently and economically drain hydrocarbons from the identified pool.

DATED this 6<sup>th</sup> day of June, 2024.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL



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HAYDEN S. MAROTZ  
Deputy Attorney General  
for Idaho Department of Lands

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6<sup>th</sup> day of June 2024, I caused to be served a true and correct copy of the foregoing by the following method to:

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