BEFORE THE IDAHO OIL AND GAS CONSERVATION COMMISSION

In the Matter of the Application of AM Idaho, LLC and Alta Mesa Services, LP to Establish a Spacing Unit and for Integration of All Uncommitted Owners in the Proposed 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. AM Idaho, LLC and Alta Mesa Services, LP, Applicants.	Docket No. CC-2016-OGR-01-004 **FINAL ORDER**

The Director's Amended Order and Withdrawal of January 17, 2017 Order was issued January 23, 2017 ("Director's Amended Order"). Mineral owners Charlene Quade, Brittany and Cristian Sandoval, and Rachel Holtry filed an appeal of the Director's Amended Order on February 6, 2017. The Applicants and the Department filed responses on February 13, 2017.

Pursuant to Idaho Code § 47-324(d) and (e), the Commission heard oral argument of counsel for the parties at a duly noticed meeting on March 1, 2017. Based on the Commission's review of the record below as set forth in the written submittals of the Appellants, the Applicants, and the Department, the Director's Amended Order, and the oral argument taken by the Commission at the March 1, 2017 appeal hearing, and finding substantial evidence in the record supporting the Director's Amended Order, the Commission unanimously affirmed and adopted the Amended Order in its entirety at its March 1, 2017 special meeting. The Commission therefore adopts all of the factual findings and legal conclusions in the Director's Amended Order, which is attached hereto and incorporated by reference herein.

This is the Commission's final order. The Commission's final order "shall not be subject to any motion for reconsideration." Idaho Code § 47-324(e).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (1) a hearing was held, (2) the final agency action was taken, (3) the party seeking review of the order resides, or (4) the real property or personal property that was the subject of the agency action is located.

An appeal must be filed within twenty-eight (28) days of the service date of this final order. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Dated this 8th day of March 2017.

CHRIS BECK

Chairman
Idaho Oil and Gas Conservation Commission

BEFORE THE IDAHO DEPARTMENT OF LANDS

IN THE MATTER OF THE APPLICATION OF AM IDAHO, LLC, AND ALTA MESA SERVICES, LP TO ESTABLISH A SPACING UNIT AND FOR INTEGRATION OF ALL UNCOMMITTED OWNERS IN THE PROPOSED UNIT CONSISTING OF THE SE¼ OF SECTION 9, SW¼ OF SECTION 10, NW¼ OF SECTION 15, AND THE NE¼ OF SECTION 16, TOWNSHIP 8 NORTH, RANGE 5 WEST, BOISE MERIDIAN, PAYETTE COUNTY, IDAHO. AM Idaho, LLC, and Alta Mesa Services, LP, Applicant.	**AMENDED ORDER AND WITHDRAWAL OF JANUARY 17, 2017 ORDER** **Docket No. CC-2016-OGR-01-004**

The Director hereby WITHDRAWS the January 17, 2017 Findings of Fact, Conclusions of Law, and Order and ISSUES AN AMENDED ORDER. The Director has authority to modify an order on his own motion by withdrawing and issuing a substitute order. IDAPA 04.11.01.760

I. Withdrawal of January 17, 2017 Order

The January 17, 2017 Findings of Fact, Conclusions of Law, and Order in this docket inadvertently left out several sentences on page 26 due to a clerical error. Those missing sentences are as follows:

> 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) calendar days of service of a copy of the appeal materials. The appellant shall provide the Director with proof of service of the appeal materials on other persons.
>
> If no appeal is filed within the required time, this decision shall become the final order. Idaho Code § 47-324(f).

Because this language was omitted, the Director now issues an amended order that includes those sentences and also changes the date of issuance from January 20, 2017 to January 23, 2017. Those are the only changes in the Amended Order.

II. Amended Order

I. PROCEDURAL BACKGROUND and PARTIES

By Application dated November 16, 2016 (the "Application") AM Idaho, LLC and Alta Mesa Services, LP ("Applicant") requested an order establishing a spacing unit ("Proposed Spacing Unit") and integration of certain unleased mineral interest owners for the following real property located in Payette County, Idaho:

Township 8 North, Range 5 West
Section 9: SE¼
Section 10: SW¼
Section 15: NW¼
Section 16: NE¼

("Subject Lands").

Pursuant to Notice of Hearing dated November 21, 2016, a hearing in the above-captioned matter was held on Wednesday, December 14, 2016, at 9 a.m., and continued on December 15, 2016 (the "Hearing") in the State Capital Lincoln Auditorium, WW02, Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho. Mr. Thomas M. Schultz, Jr., Director, Idaho Department of Lands ("Director Schultz") appointed Kelly Williams as hearing officer and presiding officer ("Hearing Officer") in the above-captioned matter by Notice of Appointment of Hearing Officer and Presiding Officer dated November 21, 2016.

Director Schultz was present at the hearing. Mr. Michael Christian ("Mr. Christian") represented the Applicants. Mr. David M. Smith, Vice President – Exploration for AM Idaho, LLC ("Mr. Smith") and Mr. David Pepper, Senior Landman for AM Idaho, LLC ("Mr. Pepper")

provided affidavits in support of Applicant and participated in the Hearing. Mr. J. Morgan Minton, Idaho Deputy Attorney General ("Mr. Minton") appeared on behalf of the Idaho Department of Lands and Mr. James Thum, Oil and Gas Program Manager for the Idaho Department of Lands ("Mr. Thum"), who also participated in the Hearing.

By Objection of Certain Uncommitted Owners, dated December 7, 2016 ("Owners' Objection"), Mr. James M. Piotrowski ("Mr. Piotrowski") submitted a summary of objections to the Application on behalf of the following individuals who own property located within the Subject Lands ("Represented Owners"):

1. Charlene Quade ("Ms. Quade"), owner of tax parcel number F30410010210;
2. Brittany and Cristian Sandoval (the "Sandovals"), owners of tax parcel number F36460030100;
3. Heather Holtry[1] ("Ms. Holtry"), owner of tax parcel number F36460060030;
4. James and Patricia Dille (the "Dilles"), owners of tax parcel number F3645001028A; and
5. Michael Jacob ("Mr. Jacob"), owner of tax parcel number F3645001026A.

Mr. Piotrowski attended the Hearing on behalf of his clients, and participated in cross examination of all witnesses who were parties to the proceedings. In addition, Ms. Quade and Mr. Dille attended the Hearing and provided testimony upon direct examination by Mr. Piotrowski.

Written comments were submitted by the following unleased mineral interest owners:

6. Mr. Russell Ruff ("Mr. Ruff"), Member, Superior Properties, LLC, and the owner of a mobile home community and an 11.81-acre parcel of real property located on the Subject Lands at 2750 Alden Road, Fruitland, Idaho 83619,

[1] Although Ms. Holtry was identified in the Owners' Objection as Rachel Holtry, Mr. Piotrowski indicated during his initial appearance that he understood his client's name to be Heather Holtry. Ms. Holtry did not appear at the Hearing and no further confirmation of her correct name was made.

provided a written response to the Application dated December 2, 2016. Mr. Ruff did not participate in the Hearing.

7. Mr. Kenneth and Mrs. Reiko Walston (the "Walstons"), owners of an 0.27009-acre parcel of real property located on the Subject Lands at 1011 Jonathan St., Fruitland, Idaho 83619, provided a written response to the Application dated December 4, 2016. The Walstons did not participate in the Hearing.

8. Mr. Robert Wade Douglas ("Mr. Douglas"), owner of an 0.2600-acre parcel of real property located on the Subject Lands at 2737 Spruce Dr., Fruitland, Idaho 83619, provided a written response to the Application dated December 5, 2016. Mr. Douglas did not participate in the Hearing.

9. Ms. Rebecca A Romans ("Ms. Romans"), owner of an 0.2175-acre parcel of real property located on the Subject Lands at 2602 Rome Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated December 5, 2016. Ms. Romans did not participate in the Hearing. Exhibit H to the Application indicates that Ms. Romans owns the parcel in question with Terry L. Ferrera, and the email address for Ms. Roman's email indicates the sender's name is "Rebecca Ferrera." The record does not reflect that Terry L. Ferrera submitted any written statement in the proceedings; nor does the record reflect that Terry L. Ferrera participated in the Hearing.

10. Mr. Thomas and Mrs. Peggy Hawkins (the "Hawkins"), owners of an 0.3159-acre parcel of real property located on the Subject Lands at 2400 Applewood Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated December 5, 2016. The Hawkins did not participate in the Hearing.[2]

11. Ms. Cindy M. Stice ("Ms. Stice"), owner of a 1.1900-acre parcel, and a 0.2165-acre parcel of real property, both of which are located on the Subject Lands at 2603 Applewood Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated on or about December 7, 2016. Ms. Stice also indicated that she provided comments on behalf of the Applewood Estates Homeowners Association, the owner of a 0.0100-acre parcel with an address identified on Exhibit H as Post Office Box 521. Exhibit H to the Application indicates that Ms. Stice owns the parcel in question with Mr. Rex Stice ("Mr. Stice"). The record does not reflect that Mr. Stice provided a separate written response to the Application. Neither Ms. Stice nor Mr. Stice participated in the hearing.

[2] At the Hearing, Mr. Piotrowski entered an appearance on the record on behalf of the Hawkins. The Hawkins did not appear at the Hearing, and Mr. Piotrowski stated that their written comments had been submitted *pro se*, prior to his being hired by them on the morning of the Hearing. Mr. Piotrowski did not submit an entry of appearance or amend the Owners' Objection to include the Hawkins; nevertheless, for purposes of the Hearing, the Hearing Officer took judicial notice of Mr. Piotrowski's representation.

Certain public witnesses attended the Hearing and provided statements, some of which were directed at the Application in Docket No. CC-2016-OGR-01-004, and to Docket Nos. CC-2016-OGR-001-005 and -006. Although those public statements were included in the official transcript of the Hearing and are part of the record, they do not serve as the basis for any conclusions contained in the Findings of Fact, Conclusions of Law or Order for this docket.

Prior to the Hearing, on December 8, 2016, at 1:30 p.m., a prehearing conference was held via telephone ("Prehearing Conference"). In the interest of administrative economy, for purposes of the Prehearing Conference only, the Prehearing Conference consolidated the above-captioned matter with Docket Nos. CC-2016-OGR-01-005 and -006 (collectively, "Consolidated Prehearing Docket"); and on December 9, 2016, the Hearing Officer issued a Prehearing Order for the same.

Also prior to the Hearing, Mr. Minton submitted the Idaho Department of Lands' ("IDL") Prehearing Brief dated December 7, 2016 ("IDL Prehearing Brief"), in which IDL summarized Idaho law governing spacing units and integration, and took no position on the request made in the Application.

During the Hearing, Exhibits AM-1, AM-2 and AM-3 were admitted into evidence and are included in the record.

All parties, interested persons, and public witnesses who wished to participate in the Hearing were provided with an opportunity to present testimony and evidence. The Parties to the proceedings also were provided the opportunity present opening and closing statements, cross examine witnesses, offer rebuttal testimony and re-direct witnesses. Director Schultz and the Hearing Officer also asked questions and examined the evidence submitted.

Director Schultz, having considered the testimony presented and the exhibits received into evidence at the Hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law, and order in this matter.

II. FINDINGS OF FACT

1. Pursuant to IDAPA 04.11.01.602, the Hearing Officer takes judicial notice that as required by Idaho Code § 47-324(c)(iii), IDL mailed a copy of the Application and Notice of Hearing, by certified mail, return receipt requested, to the last known addresses provided in the Application for all those uncommitted mineral interest owners identified by the Applicant as owning interests in the Proposed Spacing Unit.

2. Notice of the time, place, and purposes of the Hearing were duly published in the Independent Enterprise, a weekly newspaper of general circulation in Payette County, pursuant to the requirements of Idaho Code § 47-324(c)(iii).

3. This Findings of Fact, Conclusions of Law and Order incorporates by reference the entire record in this matter, including the Application and accompanying exhibits, correspondence from mineral owners and public witnesses, correspondence and documents from personnel with the Idaho Department of Lands ("IDL"), notices, pleadings, responses from the parties, and the hearing transcripts.

4. The record reflects that AM Idaho, LLC and Alta Mesa Services, LP filed the Application with IDL on November 16, 2016; and by letter dated November 22, 2016 ("IDL Letter"), IDL notified the Applicant that its Application was administratively complete as described in Idaho Code § 47-322.

5. The IDL Letter also states that IDL's "acceptance of the applications for filing is only the initial step in the hearing process and should not be construed as preventing IDL or the

hearing officer from determining that additional information may be needed in order to grant the application."

A. SPACING

1. The Applicant seeks an order establishing a 625-acre spacing unit for a vertical well in, and the production of oil, gas and other hydrocarbons from, the Poison Creek and Chalk Hills formations of the Idaho Group underlying the Proposed Spacing Unit.

2. The uncommitted minerals underlying the Proposed Spacing Unit are mostly owned by private individuals and entities. The Applicant is the owner of working interests in the Subject Lands, and the Applicant has obtained a lease for the proposed drill site.

3. The Application includes an exhibit containing a plat depicting the section in which the quarter-quarter sections proposed for spacing and integration are located, and individual owners are identified by corresponding tract numbers.

4. Based on Mr. Smith's Affidavit and testimony he provided during the Hearing, the Proposed Spaced Unit is a presumed structural trap with fluvial and lacustrine sands deposited in the Western Snake River Plain as it began downwarping and faulting. The seal for the reservoir appears to be claystones and tuffaceous silts of the Glenn's Ferry formation that overlays the trap.

5. Mr. Smith stated in his affidavit that "[p]otential source rocks are dark gray carbonaceous shales and coals found in some of the deeper area wells (Chevron James #1, Champlin Deer Flat #11-19, etc.)."

6. At the Hearing, Mr. Smith testified that the information used to form his conclusions about the location of the reservoir was based primarily on interpretation of

geophysical seismic data used in conjunction with historical well logs from wells located between two and six miles away from the Proposed Spacing Unit.

7. Mr. Smith stated in his affidavit that "local well control suggests significant variability of porosity, permeability and sand thickness in the target section." He stated in his testimony that wells within the area may give some idea about conditions within the target areas, but because no wells had produced in the area, well data was not available to establish a basis for determining how large an area a proposed well might drain.

8. The Applicant did not provide evidence of well logs or interpretations of well logs during the Hearing.

9. Mr. Smith testified regarding conclusions he made about the possible size and location of the reservoir based on seismic data he had examined; however, the Application did not include seismic data and evidence of seismic data was not provided at the Hearing.

10. Mr. Smith testified regarding Exhibit AM-3 explaining that the exhibit depicted conclusions he had drawn from seismic data obtained in the area. Mr. Smith testified that based on his interpretation of the data, the Applicant could estimate the most productive location to drill because the strength of the reflection from sand in the seismic data indicated there also may be an accumulation of gas.

11. Mr. Smith testified that "seismic . . . [data] is a tool and it's a bit of a gross tool, but it's our best estimate or best interpretation at this time as where we think the gas may be. And when you get around the boundaries and the edges, there is a certain amount of uncertainty. So this is the best we can say at this point, barring new drilling." Mr. Smith testified that he had examined well logs acquired after drilling in the Willow Hamilton field.

12. Mr. Smith testified that his confidence in the seismic interpretation he completed for the Harmon Area at issue in this proceeding was based on his prior experience with interpreting similar data from the Willow Hamilton field.

13. Mr. Smith testified that based on his interpretation of the seismic data, the target reservoir for the Proposed Spacing Unit occurred in the same type of "lake basin" as the Willow Hamilton area.

14. Mr. Smith testified regarding the process by which the Applicant correlates seismic data with data obtained from other sources, to reach the conclusions relied upon to locate the potential target reservoir as follows:

> So what we've done here is we've merged two different surveys that we've acquired, one in this new area we're proposing these units [Proposed Spacing Unit] with previously acquired data in the Willow [Hamilton] area, and we've processed them together. And the basic procedure to understand is that if you find a sand in the subsurface in the wells – and so we'll do field work around the basin, and we look at all the previously drilled wells over the last hundred years to try and establish patterns of how the sands are distributed. And then we incorporate that into our seismic data. And for example, in this prospect, that May well there is sands that that well found.

15. Mr. Smith testified that the well in the Willow Hamilton area from which data was derived to correlate with seismic data in the Proposed Spacing Unit, was located approximately six (6) miles east of the Proposed Spacing Unit.

16. Upon questions from the Hearing Officer regarding which wells and which geophysical information the Applicant used to draw the conclusions used as the basis for establishing the reservoir location, Mr. Smith testified as follows:

> As geoscientists we try to honor all the data that is available.
> And the fact of the matter is, is that this is an exploration play.
> And so there is very scattered points of what we call control, subsurface control. That's sort of our ground truth.

> And in this area it's the May [1-13] well, which is in this section. And then approximately two or three miles west of here there's a – well, it was drilled in the early 80's as a geothermal test that the Department of Energy funded in the town of Ontario. And that well went to about 10,500 feet, I believe. Something like that. And it found predominately shell [sic, shale] but it also found some sands. And the two logs look very different between two or three miles to the west and then this May well.
> So it tells you that the sands vary in quality and thickness and presence and that sort of thing. So that's what we use the 3-D seismic for.

17. IDL did not take a position on the Application in its Prehearing Brief, but in that brief reserved the right to do so and to "provide additional evidence and analysis based on information or evidence that may be introduced at the hearing in this matter."

18. At the Hearing, Mr. Thum testified that he had spent an extensive amount of time doing a technical review of information the Applicant made available at its offices, including the well information from the May 1-13 Well, the seismic information for the general area of the Subject Lands and the well logs for some of the Applicant's producing wells in the adjacent, Willow Hamilton field.

19. The Applicant made the materials available on a geologic work station that enabled Mr. Thum to examine different seismic profiles and orientations. Mr. Thum also testified that Mr. Smith provided a detailed explanation of his findings and reasoning for identifying the Proposed Spacing Unit.

20. The Department supported the Application based on the information described at the hearing.

21. The Proposed Spacing Unit is located in an area that remains largely undeveloped and wildcat in nature; and as such, the seismic data and limited well data from surrounding land is the best evidence available for determining the location of a reservoir at this time

22. The Application described the Applicant's proposed operations. As described in the Application, "[b]ecause of the wildcat nature of the proposed activity, the specific subsequent operations are unknown at this time." Based on the Application, the purpose of operations on the Subject lands is exploratory and if a successful well is developed, operations would be "similar to the operations found at the previously drilled and completed wells in the Little Willow area, such as the ML 1-3, ML 2-3, Kauffman 1-34, and Kauffman 1-9."

23. Lastly, Mr. Smith stated in his affidavit and testimony that 625 acres is not smaller than the maximum area that can be efficiently and economically drained by a vertical well completed and produced from the Proposed Spacing Unit.

24. Mr. Piotrowski cross-examined Mr. Smith regarding the level of certainty he could achieve as to establishing the precise location and extent of the reservoir underlying the Proposed Spacing Unit and as to estimating the amount of potential oil or gas that might be recovered from lands within the Proposed Spacing Unit.

25. Mr. Piotrowski also cross-examined Mr. Smith regarding matters related to air, water, noise and light pollution, radioactivity caused by drilling operations, decreases in home values due to oil and gas leasing in the vicinity of homes, increased traffic on areas surrounding the Proposed Spacing Unit, "the extent to which to process of drilling and development imposes additional taxpayer burdens on local communities," and several additional avenues of questioning that were not relevant to the proceedings.

26. Mr. Piotrowski did not present evidence or witnesses that contradicted the evidence and testimony presented by Applicant with regard to the location and size of the Proposed Spacing Unit.

27. Mr. Piotrowski did not elicit testimony or produce evidence to support the relevance or foundation of statements made by his clients.

28. Mr. Piotrowski did not present evidence with sufficient relevance to be admitted or given equal weight to conflicting testimony or evidence, and testimony he provided in his cross examinations of Applicant's witnesses was not based on any demonstrable facts or evidence proffered by Mr. Piotrowski or his clients.

B. INTEGRATION

1. In addition to requesting an order spacing the Subject Lands, the Applicant requests that the lands and mineral interests encompassed in the Proposed Spacing Unit be integrated ("Proposed Integration Interests").

2. The Application includes Exhibit H, a list of names and last known addresses of proposed uncommitted mineral interest owners, identified by tract numbers that correspond with parcels of the Proposed Spacing Unit that are to be integrated. The parcel numbers are identified on the Plat that is attached as Exhibit A to the Application. Exhibit H also details the efforts made to contact uncommitted owners and reach an agreement for leasing.

3. The Application includes evidence of certified mail addressed to each uncommitted mineral interest owner, and an example of the letter containing the Applicant's offer to lease. It also includes an affidavit of publication intended to give notice of the Applicant's intention to develop the mineral resources to those who were no longer at the last known address, or otherwise un-locatable. The application, letter and publication evidence the Applicant's compliance with Idaho law that requires an attempt to give mineral owners actual prior notice of the intent to develop the mineral resource. Idaho Code § 47-322(d)(x).

4. Exhibit E to the Application is the Affidavit of Mr. Pepper ("Pepper Affidavit"), in which he stated that the Applicant had obtained leases for 66.7% of the mineral interest acres in the Proposed Spacing Unit. During his testimony, Mr. Pepper indicated that the percentage of leased individuals had increased in the time since he made the statement in his affidavit.

5. Mr. Pepper testified regarding his efforts prior to submission of the Application and the Hearing, and his ongoing efforts to reach an agreement with individuals who might agree to speak to him.

6. By Notice of Withdrawal dated January 13, 2017, the Applicant reported that they had "leased the mineral rights" of Nola S. Miller.

7. Applicant also provided the following list of parties that had granted leases to them just prior to, or after the Hearing:

Anthony O. Andrade, Jr. and Sonya Lynn Murphy
Payette County, a political subdivision of the State of Idaho
Rita Lockner
R. Scott Rode and Deborah D. Rode, husband and wife
Judy Ann Phillips
Isnarda Rodriguez
Nathan L Wilson and Rebekah D. Wilson, husband and wife
Kimberly Butler, an unmarried woman
Curtisco, LLC
Ty A. Curtis, Individually and as Trustee of the Ty A. Curtis Family Trust, U/T/D June 22, 2011
La Verne Edward Rathbun and Caroline June Rathbun
Dane G. Hulbert and Danette C. Hulbert, Individually and as Trustees of the Shields Family Trust, u/t/a dated September 24, 2014
Anita Zink, an unmarried person
Michael Bradley Ihli and Linda Marlene Ihli, Individually and as Trustees of the Michael Bradley Ihli and Linda Marlene Ihli Joint Living Trust
Robert W. Cross and Ginger H. Cross, husband and wife
Lori D. Bieker and Ashley Copeland (formerly Justin Core)
Lori Delehant, a married woman as her sole and separate property
Randy L. Bergquist and Kathie Bergquist, husband and wife
Brad J. Holt and Laura J. Holt, husband and wife
David H. Jeffries and Susan E. Jeffries, husband and wife

8. The Applicant ceased making efforts to reach an agreement with those individuals who had refused to speak with the landmen or engage in any negotiation from the outset, and who had requested that the Applicant not contact them again. Mr. Pepper stated in his affidavit and during his testimony that the highest bonus he had paid in the Proposed Spacing Unit was $100 per acre.

9. During the Hearing, Mr. Pepper testified that mineral owners who extended their leases pursuant to the option to extend, would be paid the same bonus of $100 per mineral acre, rather than the $50 per mineral acre as indicated in the Application.

10. The Application describes the five options for participating in the Proposed Spacing Unit as provided by Idaho law. Under Idaho Code § 47-322(c)(i)-(iv), a mineral interest owner may choose one of the following options: a) become a working interest participant and bear a proportionate cost of participating in a well as provided for in the joint operating agreement; b) become a nonconsenting working interest owner as provided for in the joint operating agreement, ultimately recovering as a proportionate share of the proceeds attributable to production from the well, as a carried interest, after incurring up to a 300% risk penalty; c) become a lessee, and agree to lease a mineral interest for a certain dollar amount as a bonus and receive a one-eighth (1/8) royalty on the share of production attributable to the mineral acres leased; d) become an objector, and be deemed to have leased the mineral interest in exchange for a 1/8 royalty interest attributable to the net mineral acreage; and e) become a mineral interest owner who does not make an election in response to the notice of integration, in which case a party will be deemed to have leased their interest in exchange for a 1/8 royalty interest attributable to the net mineral acreage and bonus equal to what is paid by the operator to the

other mineral interest owners in the Proposed Spacing Unit prior to issuance of any integration order.

11. The Application includes a proposed joint operating agreement form ("JOA") as Exhibit C and a lease form as Exhibit D, and Mr. Pepper testified that the Applicant was seeking a 300% risk penalty to be applied to nonconsenting working interest owners. The Applicant's JOA is the same JOA used with its partners.

12. The lease form attached to the Application as Exhibit D is the same form of lease, including bonus and royalty amounts, that has been offered to and signed by other mineral owners in the area.

13. In his affidavit and testimony, Mr. Pepper explained that the basis of the 300% penalty imposed on nonconsenting working interest owners is that "[t]he well to be drilled in the unit is a 'wildcat' well in an area of limited knowledge of and experience with the geology, entailing higher risk to Applicant than a well drilled in a fully developed area."

14. Mr. Pepper's affidavit describes additional risk factors justifying the 300% risk penalty, including the "technically complex" targeted conventional sand; lack of "developed infrastructure for making product from a successful well market ready and transporting product[;]" and "the frontier nature of the play in which the unit is located," making sourcing of drilling contractors and rigs more expensive.

15. By letter dated January 4, 2017, and addressed to Mr. Thum, Mr. Christian submitted three (3) revisions to the JOA as follows:

a. On page 5, Article VI.A, "Initial Well," will be returned to its original form without deletion, and the added sentence regarding no initial

well and the Participation Agreement between AM Idaho, LLC and Bridge will be deleted.

b. On page 7, Article VI.B.2(b)(ii) and (c), the penalty for nonconsent for the items listed in those subparagraphs will be reduced from 500% to 300%.

c. On page 17b, Article XVI.D.1, the opening phrase will be amended to read, "Except as to the Initial Well, notwithstanding anything in this Operating Agreement to the contrary."

16. The revisions to the JOA are fair and reasonable, and in line with standard industry practice in the greater geographic region.

17. Mr. Dille provided testimony at the Hearing that he did not think the amount offered to him for leasing his minerals to the Applicants was sufficient, and that he had refused the Applicants' offers to enter into a lease.

18. Ms. Quade testified that she did not respond to the Applicants' attempts to contact her regarding leasing her mineral property, because she "had no intention to sell [her] oil and gas rights at this time."

19. Ms. Quade testified that her decision not to lease was based on multiple personal concerns, from potential water pollution to the relationship between oil and gas drilling and developmental disabilities in children.

20. Those individual mineral interest owners who submitted written responses did not provide any evidentiary basis to challenge the integration elements proposed by Applicant.

III. CONCLUSIONS OF LAW

1. The Idaho Oil and Gas Conservation Act ("Act") applies to all matters affecting oil and gas development on all lands located in the state of Idaho. Idaho Code § 47-319.

2. The Idaho Administrative Procedures Act codified at Title 67, Chapter 52 of the Idaho Code, and the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, *et. seq.*, also apply to the proceedings, to the extent that neither is superseded by the Act.

3. Under Idaho law, the 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 administer [the Act]." Idaho Code § 47-319(8). IDL is the administrative instrumentality of the Commission and the Director of IDL has authority over these proceedings pursuant to Idaho Code §§ 47-321, 47-322(a) and 47-324(c).

4. Idaho law requires that "[a]n order establishing spacing units shall specify the size and shape of the units . . . [that] will, in the opinion of [IDL], result in the efficient and economical development of the pool as a whole." Idaho Code § 47-321(2).

5. Under Idaho law, "[i]f at the time of a hearing to establish spacing units, there is not sufficient evidence to determine the area that can be efficiently and economically drained by one (1) well, the department may make an order establishing temporary spacing units for the orderly development of the pool pending the obtaining of information required to determine what the ultimate spacing should be." Idaho Code § 47-321(2)(a).

6. Thus, the Applicant must show sufficient evidence, geologic or otherwise, to establish that the Proposed Spacing Unit can be efficiently and economically drained by one (1) well.

7. Pursuant to the Idaho Administrative Procedures Act, 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).

8. Based on evidence and testimony presented at the Hearing and in the Application, the record does not reflect sufficient evidence that the Proposed Spacing Unit can be efficiently drained by one well.

9. Nevertheless, sufficient evidence was presented to support establishing a temporary spacing unit, in furtherance of orderly development of the pool until information can be obtained to establish appropriate spacing pursuant to Idaho Code § 47-321(2)(a).

10. While many jurisdictions have grappled with the lack of information available in new areas of oil and gas development, most have erred on the side of requiring more than one scientific tool in ascertaining the physical characteristics and reservoir dynamics necessary to determine the extent of correlative rights and protect the same. *See e.g., Hystand v. Industrial Commission,* 389 N.W.2d 590 (N.D. 1986); *Larsen v. Oil & Gas Conservation Commission,* 569 P.2d 87, 92 (Wyo. 1977) (the Wyoming Supreme Court held that minimum findings include "(1) the amount of recoverable oil in the pool; (2) the amount of recoverable oil under the various tracts; (3) the proportion that #1 bears to #2; and (4) the amount of oil that can be recovered without waste."); *Grace v. Oil Conservation Commission of New Mexico*, 531 P.2d 939 (N.M. 1975); and *Continental Oil Co. v. Oil Conservation Commission,* 373 P.2d 809 (N.M. 1962).

11. At the Hearing, the Applicant did not provide evidence of any of the well logs it reviewed, or charts or depictions of the structures into which it intended to drill. Because the area is undeveloped, this is an exploration play, and seismic is an uncertain and limited tool without drilling, all of which were established through the Applicant's testimony, the size, shape, and drainage area of the pool all require significant speculation. Further, the Applicant's evidence and testimony confirmed that absent information obtained from a producing well located in close proximity to the Proposed Spacing Unit, establishing the location and size of the target reservoir requires significant speculation.

12. Uncommitted Mineral Owners provided comments and expressed opposition to the Proposed Spacing Unit.

13. The lack of specific information or evidence beyond assertions from the Applicant regarding the location and extent of the target pool in the Proposed Spacing Unit is concerning because of the proximity of the Proposed Spacing Unit to existing residential development.

14. The Proposed Spacing Unit is located beneath portions of land where the record reflects that at least some residential development currently exists. Although the mineral estate is dominant over the surface estate, development of the mineral estate should be done in a reasonable and prudent manner so as to not unreasonably interfere with the established surface use. Care should be taken to ensure that the spacing unit is of approximate size and shape so as to efficiently and economically drain the pool with only one well. This will also ensure that correlative rights are protected, while limiting impacts to surface uses on only those acres necessary to explore, develop, and produce the reservoir.

15. Establishing a temporary spacing unit ensures that the fewest individuals necessary will be affected by Applicant's operations on the Subject Lands. If the additional geologic information obtained does not confirm the size of the pool, and the Proposed Spacing Unit could be reduced, this may result in fewer individuals' property being pooled.

16. Due to the distance between the target pool underlying the Proposed Spacing Unit and the reservoir from which drilling data had been obtained and analyzed by the Applicant, and the significant variability of the thickness and porosity of the targeted sands within the area, correlation between the two production areas could be improved with additional development of wells in adjacent areas.

17. The evidence and testimony presented established the likelihood of a productive pool underlying the Proposed Spaced Unit sufficient to support establishing a temporary spacing unit to facilitate the orderly development of the Proposed Spaced Unit until further development can occur that that will help define the target reservoir as claimed.

18. Once development occurs, additional information from well logs, interpretation of core samples, mud logs, or other means of establishing the source of production and the nature of the structure in which it occurs, may be used to confirm the location and extent of the reservoir underlying the Proposed Spacing Unit.

19. Such development must precede establishing the Proposed Spacing Unit as currently requested and proposed.

20. An eighteen-month time frame for achieving production, or establishing some other means of acquiring sufficient evidence of the reservoir size and location will provide the Applicant with the opportunity to pursue the Proposed Spacing Unit and proceed with orderly development of the Harmon area.

21. During the pendency of the temporary spacing unit, the Applicant also must establish production or other data sufficient to establish the pool's size and location.

22. Idaho law provides that "in the absence of voluntary integration, the department, upon the application of any owner in that proposed spacing unit, shall order integration of all tracts or interests in the spacing unit for drilling of a well or wells, development and operation thereof and for the sharing of production therefrom." Idaho Code § 47-322(a).

23. Under Idaho law, the Applicant is required to obtain an agreement to lease from owners of at least fifty-five percent (55%) of the total mineral interest within the Proposed Spacing Unit. Idaho Code § 47-322(d)(viii).

24. Based on the evidence provided at the Hearing and in the Application, and subject to the temporary term of the Proposed Spacing Unit, the Director concludes that the Application meets the minimum requirements for integration.

25. Based on the evidence presented, the Director concludes that it is appropriate to integrate the uncommitted mineral interest owners pursuant to Idaho Code § 47-322, with the express condition that said integration will be temporary for the same period of time as the temporary spacing.

26. The five alternatives for the uncommitted mineral interest owners to participate in the spacing unit are just and reasonable. The Applicant's proposed lease form contains just and reasonable terms to govern the relationship between the Applicants and uncommitted mineral interest owners who lease, fail to make an election, or choose to be objectors. The joint operating agreement with its revised terms contains just and reasonable terms to govern the relationship between the Applicants and the uncommitted mineral interest owners who elect to participate as working interest owners or nonconsenting working interest owners. As Mr. Pepper testified, the

terms of the proposed lease and the joint operating agreement are reasonable and are standard in the industry throughout the greater geographic region.

27. Given that the drilling of these proposed wells are speculative exploratory wells entailing a higher degree of risk; and the significant distance of the well sites from well service contractors and the significant mobilization costs for transporting a drill rig, a 300% risk penalty is just and reasonable. Thus, the Applicant shall be entitled to recover from the interest of any nonconsenting working interest owner three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well.

IV. ORDER

For the reasons stated above, pursuant to Idaho Code §§ 47-321 and 47-322 and based on the evidence in the record, the Director HEREBY GRANTS the Integration Application in Docket No. CC-2016-OGR-01-004 according to the terms and conditions requested by the Applicants *as modified by the terms and conditions contained herein.*

A. The Proposed Spacing Unit shall be granted for a temporary term of eighteen months from the date of this Order.

B. By or before the last day of the seventeenth month within in the eighteen-month period, the Applicant shall file an Application in this matter seeking a permanent spacing unit, under Idaho Code § 47-321.

C. In requesting the spacing unit as provided for herein, the Applicant shall provide additional production data, well logs, or other demonstrative evidence sufficient to establish the location of the Proposed Spacing Unit and the extent of the pool underlying the Subject Lands that one well will drain.

D. Such evidence must be more than merely asserting conclusions based on summaries of evidence not provided to IDL.

E. IDL should be provided with an opportunity to make an assessment of the evidence, and upon examination of the evidence, IDL should be prepared to provide the Director or other fact-finder with information that will assist in assessing the sufficiency of the evidence, from a technical perspective.

F. If the Applicant fails to file an Application to establish a spacing unit pursuant to Idaho Code § 47-321, the temporary unit ordered herein shall expire, and the Subject Lands, and all leased and unleased parties within the temporary unit shall be released from the temporary unit.

G. If and when production from the Subject Lands is achieved, proceeds attributable to production from lands within the temporary spacing unit shall be held in suspense until such time as a hearing on an application for a spacing unit can be held to determine whether sufficient evidence exists to confirm the Proposed Spacing Unit.

H. Proceeds attributable to production from the temporary spacing unit shall be paid into an interest-bearing account administered by a third party, escrow agent, or similar fiduciary; and shall be available for release to the Applicant for payment to the appropriate party immediately upon Applicant obtaining a spacing order under which each mineral interest owner's proportionate share can be determined and allocated.

I. Only one (1) well shall be drilled to and produced in this temporary spacing unit. The well must be drilled with a minimum setback of six hundred sixty (660) feet from the unit boundary.

J. Alta Mesa Services, LP is the designated Operator of the well to be drilled within this temporary spacing unit, and has the exclusive right to drill, equip, and operate the well within the temporary spacing unit. Accordingly, all separate tracts within the spacing unit are HEREBY INTEGRATED for the purpose of drilling, developing, and operating a well in the temporary spacing unit, and for the sharing of all production therefrom in the temporary spacing unit, in accordance with the terms and conditions of the above-captioned order.

K. Operations on any portion of a spacing unit will be deemed for all purposes the conduct of operations upon each separately owned tract in the spacing unit.

L. Production allocated or applicable to a separately owned tract included in the spacing unit shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on that tract.

M. IT IS HEREBY ORDERED that from and after this date all production from this spacing unit be integrated and allocated among the interest owners therein according to the proportion that each mineral interest owners' net mineral acreage bears.

ALL UNCOMMITTED INTEREST OWNERS IN THE TEMPORARY SPACING UNIT ARE HEREBY NOTIFIED that they have 30 days from and after the date of the issuance of the above-captioned Order to make known to the Operator, Alta Mesa Services, LP, which of the following options they select for participation in the integrated spacing unit. This selection shall be made in writing, and addressed to:

Alta Mesa Services, LP
15021 Katy Freeway, Suite 400
Houston, TX 77094

by first class mail. Uncommitted mineral interest owners may either choose to participate as: a working interest owner; a non-consenting working interest owner; a leased interest; or as an objector.

A failure to notify the Operator, Alta Mesa Services, LP, within 30 days of this order shall result in that owner's interest being deemed leased. Consistent with Idaho Code § 47-322(c)(i) - (v), the available participatory options are:

> Participate as a working interest owner and pay the proportionate share of the actual costs of drilling and operating a well allocated to the owner's interest in the spacing unit. Working interest owners who share in the costs of drilling and operating the well are entitled to their respective shares of the production of the well. The operator of the integrated spacing unit and working interest owners shall enter into the joint operating agreement approved by the department in this order.
>
> Participate as a nonconsenting working interest owner, who refuses to share in the risk and actual costs of drilling and operating the well, but desires to participate as a working interest owner. Nonconsenting working interest owners are entitled to their respective shares of the production of the well, not to exceed one-eighth (1/8) royalty, until the operator of the integrated spacing unit has recovered three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well under the terms set forth in joint operating agreement approved by the department in this order. After all the costs have been recovered by the consenting owners in the spacing unit, the nonconsenting owner is entitled to his respective shares of the production of the well, and shall be liable for his pro rata share of costs as if the nonconsenting owner had originally agreed to pay the costs of drilling and operating the well. The operator of the integrated spacing unit and nonconsenting working interest owners shall enter into a joint operating agreement approved by the department in this order.
>
> Enter into a lease with the operator of the spacing unit under the terms and conditions in the proposed lease Alta Mesa provided. The owner shall receive one-eighth (1/8) royalty and $100 per net mineral acre bonus payment and another $100 bonus for an extension on the lease term.
>
> Object to any participation or involvement of any kind in the unit. An objecting owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. An objecting owner may elect to have any funds to which he or she is entitled to transferred to the STEM action center.

> If an owner fails to make an election within the 30 days set forth in this order, such owner's interest will be deemed leased under the terms and conditions in this order. The owner shall receive one-eighth (1/8) royalty and a $100 per net mineral interest acre bonus payment and another $100 bonus for an extension on the lease term.

If one or more of the owners shall drill, equip, and operate, or operate, or pay the costs of drilling, equipping, and operating, or operating, a well for the benefit of another person as provided for the order, then such owners or owner shall be entitled to the share of production from the spacing unit accruing to the interest of such other person, exclusive of a royalty not to exceed one-eighth (1/8) of the production, until the market value of such other person's share of the production, exclusive of such royalty, equals the sums payable by or charged to the interest of such other person. The terms and conditions of the above-described orders are hereby determined to be just and reasonable.

Each owner will have thirty days (30) from issuance of this order to make an election and communicate his election in writing to Alta Mesa.

PROCEDURES & REVIEW

Pursuant to Idaho Code § 47-324(c) 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 § 47-324(d), 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 Director within fourteen (14) calendar days of the date of issuance of the Director's written decision. The date of issuance shall be January 23, which is three (3) calendar days after the Director 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) calendar days of service of a copy of the appeal materials. The appellant shall provide the Director with proof of service of the appeal materials on other persons.

If no appeal is filed within the required time, this decision shall become the final order. Idaho Code § 47-324(f).

DATED this 18th day of January, 2017

KELLY A. WILLIAMS
Hearing Officer

THOMAS M. SCHULTZ, JR.
Secretary to the Commission and
Director of the Idaho Department of Lands

BEFORE THE IDAHO DEPARTMENT OF LANDS

IN THE MATTER OF THE APPLICATION OF AM IDAHO, LLC, AND ALTA MESA SERVICES, LP TO ESTABLISH A SPACING UNIT AND FOR INTEGRATION OF ALL UNCOMMITTED OWNERS IN THE PROPOSED UNIT CONSISTING OF THE SE¼ OF SECTION 9, SW¼ OF SECTION 10, NW¼ OF SECTION 15, AND THE NE¼ OF SECTION 16, TOWNSHIP 8 NORTH, RANGE 5 WEST, BOISE MERIDIAN, PAYETTE COUNTY, IDAHO. AM Idaho, LLC, and Alta Mesa Services, LP, Applicant.	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** **Docket No. CC-2016-OGR-01-004**

I. PROCEDURAL BACKGROUND and PARTIES

By Application dated November 16, 2016 (the "Application") AM Idaho, LLC and Alta Mesa Services, LP ("Applicant") requested an order establishing a spacing unit ("Proposed Spacing Unit") and integration of certain unleased mineral interest owners for the following real property located in Payette County, Idaho:

Township 8 North, Range 5 West
Section 9: SE¼
Section 10: SW¼
Section 15: NW¼
Section 16: NE¼

("Subject Lands").

Pursuant to Notice of Hearing dated November 21, 2016, a hearing in the above-captioned matter was held on Wednesday, December 14, 2016, at 9 a.m., and continued on December 15, 2016 (the "Hearing") in the State Capital Lincoln Auditorium, WW02, Lower Level, West Wing, 700 W. Jefferson St., Boise, Idaho. Mr. Thomas M. Schultz, Jr., Director,

Idaho Department of Lands ("Director Schultz") appointed Kelly Williams as hearing officer and presiding officer ("Hearing Officer") in the above-captioned matter by Notice of Appointment of Hearing Officer and Presiding Officer dated November 21, 2016.

Director Schultz was present at the hearing. Mr. Michael Christian ("Mr. Christian") represented the Applicants. Mr. David M. Smith, Vice President – Exploration for AM Idaho, LLC ("Mr. Smith") and Mr. David Pepper, Senior Landman for AM Idaho, LLC ("Mr. Pepper") provided affidavits in support of Applicant and participated in the Hearing. Mr. J. Morgan Minton, Idaho Deputy Attorney General ("Mr. Minton") appeared on behalf of the Idaho Department of Lands and Mr. James Thum, Oil and Gas Program Manager for the Idaho Department of Lands ("Mr. Thum"), who also participated in the Hearing.

By Objection of Certain Uncommitted Owners, dated December 7, 2016 ("Owners' Objection"), Mr. James M. Piotrowski ("Mr. Piotrowski") submitted a summary of objections to the Application on behalf of the following individuals who own property located within the Subject Lands ("Represented Owners"):

1. Charlene Quade ("Ms. Quade"), owner of tax parcel number F30410010210;
2. Brittany and Cristian Sandoval (the "Sandovals"), owners of tax parcel number F36460030100;
3. Heather Holtry[1] ("Ms. Holtry"), owner of tax parcel number F36460060030;
4. James and Patricia Dille (the "Dilles"), owners of tax parcel number F3645001028A; and
5. Michael Jacob ("Mr. Jacob"), owner of tax parcel number F3645001026A.

Mr. Piotrowski attended the Hearing on behalf of his clients, and participated in cross examination of all witnesses who were parties to the proceedings. In addition, Ms.

[1] Although Ms. Holtry was identified in the Owners' Objection as Rachel Holtry, Mr. Piotrowski indicated during his initial appearance that he understood his client's name to be Heather Holtry. Ms. Holtry did not appear at the Hearing and no further confirmation of her correct name was made.

Quade and Mr. Dille attended the Hearing and provided testimony upon direct examination by Mr. Piotrowski.

Written comments were submitted by the following unleased mineral interest owners:

6. Mr. Russell Ruff ("Mr. Ruff"), Member, Superior Properties, LLC, and the owner of a mobile home community and an 11.81-acre parcel of real property located on the Subject Lands at 2750 Alden Road, Fruitland, Idaho 83619, provided a written response to the Application dated December 2, 2016. Mr. Ruff did not participate in the Hearing.

7. Mr. Kenneth and Mrs. Reiko Walston (the "Walstons"), owners of an 0.27009-acre parcel of real property located on the Subject Lands at 1011 Jonathan St., Fruitland, Idaho 83619, provided a written response to the Application dated December 4, 2016. The Walstons did not participate in the Hearing.

8. Mr. Robert Wade Douglas ("Mr. Douglas"), owner of an 0.2600-acre parcel of real property located on the Subject Lands at 2737 Spruce Dr., Fruitland, Idaho 83619, provided a written response to the Application dated December 5, 2016. Mr. Douglas did not participate in the Hearing.

9. Ms. Rebecca A Romans ("Ms. Romans"), owner of an 0.2175-acre parcel of real property located on the Subject Lands at 2602 Rome Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated December 5, 2016. Ms. Romans did not participate in the Hearing. Exhibit H to the Application indicates that Ms. Romans owns the parcel in question with Terry L. Ferrera, and the email address for Ms. Roman's email indicates the sender's name is "Rebecca Ferrera." The record does not reflect that Terry L. Ferrera submitted any written statement in the proceedings; nor does the record reflect that Terry L. Ferrera participated in the Hearing.

10. Mr. Thomas and Mrs. Peggy Hawkins (the "Hawkins"), owners of an 0.3159-acre parcel of real property located on the Subject Lands at 2400 Applewood Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated December 5, 2016. The Hawkins did not participate in the Hearing.[2]

[2] At the Hearing, Mr. Piotrowski entered an appearance on the record on behalf of the Hawkins. The Hawkins did not appear at the Hearing, and Mr. Piotrowski stated that their written comments had been submitted *pro se*, prior to his being hired by them on the morning of the Hearing. Mr. Piotrowski did not submit an entry of appearance or amend the Owners' Objection to include the Hawkins; nevertheless, for purposes of the Hearing, the Hearing Officer took judicial notice of Mr. Piotrowski's representation.

11. Ms. Cindy M. Stice ("Ms. Stice"), owner of a 1.1900-acre parcel, and a 0.2165-acre parcel of real property, both of which are located on the Subject Lands at 2603 Applewood Ave., Fruitland, Idaho 83619, provided a written response to the Application, dated on or about December 7, 2016. Ms. Stice also indicated that she provided comments on behalf of the Applewood Estates Homeowners Association, the owner of a 0.0100-acre parcel with an address identified on Exhibit H as Post Office Box 521. Exhibit H to the Application indicates that Ms. Stice owns the parcel in question with Mr. Rex Stice ("Mr. Stice"). The record does not reflect that Mr. Stice provided a separate written response to the Application. Neither Ms. Stice nor Mr. Stice participated in the hearing.

Certain public witnesses attended the Hearing and provided statements, some of which were directed at the Application in Docket No. CC-2016-OGR-01-004, and to Docket Nos. CC-2016-OGR-001-005 and -006. Although those public statements were included in the official transcript of the Hearing and are part of the record, they do not serve as the basis for any conclusions contained in the Findings of Fact, Conclusions of Law or Order for this docket.

Prior to the Hearing, on December 8, 2016, at 1:30 p.m., a prehearing conference was held via telephone ("Prehearing Conference"). In the interest of administrative economy, for purposes of the Prehearing Conference only, the Prehearing Conference consolidated the above-captioned matter with Docket Nos. CC-2016-OGR-01-005 and -006 (collectively, "Consolidated Prehearing Docket"); and on December 9, 2016, the Hearing Officer issued a Prehearing Order for the same.

Also prior to the Hearing, Mr. Minton submitted the Idaho Department of Lands' ("IDL") Prehearing Brief dated December 7, 2016 ("IDL Prehearing Brief"), in which IDL summarized Idaho law governing spacing units and integration, and took no position on the request made in the Application.

During the Hearing, Exhibits AM-1, AM-2 and AM-3 were admitted into evidence and are included in the record.

All parties, interested persons, and public witnesses who wished to participate in the Hearing were provided with an opportunity to present testimony and evidence. The Parties to the proceedings also were provided the opportunity present opening and closing statements, cross examine witnesses, offer rebuttal testimony and re-direct witnesses. Director Schultz and the Hearing Officer also asked questions and examined the evidence submitted.

Director Schultz, having considered the testimony presented and the exhibits received into evidence at the Hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law, and order in this matter.

II. FINDINGS OF FACT

1. Pursuant to IDAPA 04.11.01.602, the Hearing Officer takes judicial notice that as required by Idaho Code § 47-324(c)(iii), IDL mailed a copy of the Application and Notice of Hearing, by certified mail, return receipt requested, to the last known addresses provided in the Application for all those uncommitted mineral interest owners identified by the Applicant as owning interests in the Proposed Spacing Unit.

2. Notice of the time, place, and purposes of the Hearing were duly published in the Independent Enterprise, a weekly newspaper of general circulation in Payette County, pursuant to the requirements of Idaho Code § 47-324(c)(iii).

3. This Findings of Fact, Conclusions of Law and Order incorporates by reference the entire record in this matter, including the Application and accompanying exhibits, correspondence from mineral owners and public witnesses, correspondence and documents from personnel with the Idaho Department of Lands ("IDL"), notices, pleadings, responses from the parties, and the hearing transcripts.

4. The record reflects that AM Idaho, LLC and Alta Mesa Services, LP filed the Application with IDL on November 16, 2016; and by letter dated November 22, 2016 ("IDL Letter"), IDL notified the Applicant that its Application was administratively complete as described in Idaho Code § 47-322.

5. The IDL Letter also states that IDL's "acceptance of the applications for filing is only the initial step in the hearing process and should not be construed as preventing IDL or the hearing officer from determining that additional information may be needed in order to grant the application."

A. SPACING

1. The Applicant seeks an order establishing a 625-acre spacing unit for a vertical well in, and the production of oil, gas and other hydrocarbons from, the Poison Creek and Chalk Hills formations of the Idaho Group underlying the Proposed Spacing Unit.

2. The uncommitted minerals underlying the Proposed Spacing Unit are mostly owned by private individuals and entities. The Applicant is the owner of working interests in the Subject Lands, and the Applicant has obtained a lease for the proposed drill site.

3. The Application includes an exhibit containing a plat depicting the section in which the quarter-quarter sections proposed for spacing and integration are located, and individual owners are identified by corresponding tract numbers.

4. Based on Mr. Smith's Affidavit and testimony he provided during the Hearing, the Proposed Spaced Unit is a presumed structural trap with fluvial and lacustrine sands deposited in the Western Snake River Plain as it began downwarping and faulting. The seal for the reservoir appears to be claystones and tuffaceous silts of the Glenn's Ferry formation that overlays the trap.

5. Mr. Smith stated in his affidavit that "[p]otential source rocks are dark gray carbonaceous shales and coals found in some of the deeper area wells (Chevron James #1, Champlin Deer Flat #11-19, etc.)."

6. At the Hearing, Mr. Smith testified that the information used to form his conclusions about the location of the reservoir was based primarily on interpretation of geophysical seismic data used in conjunction with historical well logs from wells located between two and six miles away from the Proposed Spacing Unit.

7. Mr. Smith stated in his affidavit that "local well control suggests significant variability of porosity, permeability and sand thickness in the target section." He stated in his testimony that wells within the area may give some idea about conditions within the target areas, but because no wells had produced in the area, well data was not available to establish a basis for determining how large an area a proposed well might drain.

8. The Applicant did not provide evidence of well logs or interpretations of well logs during the Hearing.

9. Mr. Smith testified regarding conclusions he made about the possible size and location of the reservoir based on seismic data he had examined; however, the Application did not include seismic data and evidence of seismic data was not provided at the Hearing.

10. Mr. Smith testified regarding Exhibit AM-3 explaining that the exhibit depicted conclusions he had drawn from seismic data obtained in the area. Mr. Smith testified that based on his interpretation of the data, the Applicant could estimate the most productive location to drill because the strength of the reflection from sand in the seismic data indicated there also may be an accumulation of gas.

11. Mr. Smith testified that "seismic . . . [data] is a tool and it's a bit of a gross tool, but it's our best estimate or best interpretation at this time as where we think the gas may be. And when you get around the boundaries and the edges, there is a certain amount of uncertainty. So this is the best we can say at this point, barring new drilling." Mr. Smith testified that he had examined well logs acquired after drilling in the Willow Hamilton field.

12. Mr. Smith testified that his confidence in the seismic interpretation he completed for the Harmon Area at issue in this proceeding was based on his prior experience with interpreting similar data from the Willow Hamilton field.

13. Mr. Smith testified that based on his interpretation of the seismic data, the target reservoir for the Proposed Spacing Unit occurred in the same type of "lake basin" as the Willow Hamilton area.

14. Mr. Smith testified regarding the process by which the Applicant correlates seismic data with data obtained from other sources, to reach the conclusions relied upon to locate the potential target reservoir as follows:

> So what we've done here is we've merged two different surveys that we've acquired, one in this new area we're proposing these units [Proposed Spacing Unit] with previously acquired data in the Willow [Hamilton] area, and we've processed them together. And the basic procedure to understand is that if you find a sand in the subsurface in the wells – and so we'll do field work around the basin, and we look at all the previously drilled wells over the last hundred years to try and establish patterns of how the sands are distributed. And then we incorporate that into our seismic data. And for example, in this prospect, that May well there is sands that that well found.

15. Mr. Smith testified that the well in the Willow Hamilton area from which data was derived to correlate with seismic data in the Proposed Spacing Unit, was located approximately six (6) miles east of the Proposed Spacing Unit.

16. Upon questions from the Hearing Officer regarding which wells and which geophysical information the Applicant used to draw the conclusions used as the basis for establishing the reservoir location, Mr. Smith testified as follows:

> As geoscientists we try to honor all the data that is available. And the fact of the matter is, is that this is an exploration play. And so there is very scattered points of what we call control, subsurface control. That's sort of our ground truth.
> And in this area it's the May [1-13] well, which is in this section. And then approximately two or three miles west of here there's a – well, it was drilled in the early 80's as a geothermal test that the Department of Energy funded in the town of Ontario. And that well went to about 10,500 feet, I believe. Something like that. And it found predominately shell [sic, shale] but it also found some sands. And the two logs look very different between two or three miles to the west and then this May well.
> So it tells you that the sands vary in quality and thickness and presence and that sort of thing. So that's what we use the 3-D seismic for.

17. IDL did not take a position on the Application in its Prehearing Brief, but in that brief reserved the right to do so and to "provide additional evidence and analysis based on information or evidence that may be introduced at the hearing in this matter."

18. At the Hearing, Mr. Thum testified that he had spent an extensive amount of time doing a technical review of information the Applicant made available at its offices, including the well information from the May 1-13 Well, the seismic information for the general area of the Subject Lands and the well logs for some of the Applicant's producing wells in the adjacent, Willow Hamilton field.

19. The Applicant made the materials available on a geologic work station that enabled Mr. Thum to examine different seismic profiles and orientations. Mr. Thum also testified that Mr. Smith provided a detailed explanation of his findings and reasoning for identifying the Proposed Spacing Unit.

20. The Department supported the Application based on the information described at the hearing.

21. The Proposed Spacing Unit is located in an area that remains largely undeveloped and wildcat in nature; and as such, the seismic data and limited well data from surrounding land is the best evidence available for determining the location of a reservoir at this time

22. The Application described the Applicant's proposed operations. As described in the Application, "[b]ecause of the wildcat nature of the proposed activity, the specific subsequent operations are unknown at this time." Based on the Application, the purpose of operations on the Subject lands is exploratory and if a successful well is developed, operations would be "similar to the operations found at the previously drilled and completed wells in the Little Willow area, such as the ML 1-3, ML 2-3, Kauffman 1-34, and Kauffman 1-9."

23. Lastly, Mr. Smith stated in his affidavit and testimony that 625 acres is not smaller than the maximum area that can be efficiently and economically drained by a vertical well completed and produced from the Proposed Spacing Unit.

24. Mr. Piotrowski cross-examined Mr. Smith regarding the level of certainty he could achieve as to establishing the precise location and extent of the reservoir underlying the Proposed Spacing Unit and as to estimating the amount of potential oil or gas that might be recovered from lands within the Proposed Spacing Unit.

25. Mr. Piotrowski also cross-examined Mr. Smith regarding matters related to air, water, noise and light pollution, radioactivity caused by drilling operations, decreases in home values due to oil and gas leasing in the vicinity of homes, increased traffic on areas surrounding the Proposed Spacing Unit, "the extent to which to process of drilling and development imposes

additional taxpayer burdens on local communities," and several additional avenues of questioning that were not relevant to the proceedings.

26. Mr. Piotrowski did not present evidence or witnesses that contradicted the evidence and testimony presented by Applicant with regard to the location and size of the Proposed Spacing Unit.

27. Mr. Piotrowski did not elicit testimony or produce evidence to support the relevance or foundation of statements made by his clients.

28. Mr. Piotrowski did not present evidence with sufficient relevance to be admitted or given equal weight to conflicting testimony or evidence, and testimony he provided in his cross examinations of Applicant's witnesses was not based on any demonstrable facts or evidence proffered by Mr. Piotrowski or his clients.

B. INTEGRATION

1. In addition to requesting an order spacing the Subject Lands, the Applicant requests that the lands and mineral interests encompassed in the Proposed Spacing Unit be integrated ("Proposed Integration Interests").

2. The Application includes Exhibit H, a list of names and last known addresses of proposed uncommitted mineral interest owners, identified by tract numbers that correspond with parcels of the Proposed Spacing Unit that are to be integrated. The parcel numbers are identified on the Plat that is attached as Exhibit A to the Application. Exhibit H also details the efforts made to contact uncommitted owners and reach an agreement for leasing.

3. The Application includes evidence of certified mail addressed to each uncommitted mineral interest owner, and an example of the letter containing the Applicant's offer to lease. It also includes an affidavit of publication intended to give notice of the

Applicant's intention to develop the mineral resources to those who were no longer at the last known address, or otherwise un-locatable. The application, letter and publication evidence the Applicant's compliance with Idaho law that requires an attempt to give mineral owners actual prior notice of the intent to develop the mineral resource. Idaho Code § 47-322(d)(x).

4. Exhibit E to the Application is the Affidavit of Mr. Pepper ("Pepper Affidavit"), in which he stated that the Applicant had obtained leases for 66.7% of the mineral interest acres in the Proposed Spacing Unit. During his testimony, Mr. Pepper indicated that the percentage of leased individuals had increased in the time since he made the statement in his affidavit.

5. Mr. Pepper testified regarding his efforts prior to submission of the Application and the Hearing, and his ongoing efforts to reach an agreement with individuals who might agree to speak to him.

6. By Notice of Withdrawal dated January 13, 2017, the Applicant reported that they had "leased the mineral rights" of Nola S. Miller.

7. Applicant also provided the following list of parties that had granted leases to them just prior to, or after the Hearing:

Anthony O. Andrade, Jr. and Sonya Lynn Murphy
Payette County, a political subdivision of the State of Idaho
Rita Lockner
R. Scott Rode and Deborah D. Rode, husband and wife
Judy Ann Phillips
Isnarda Rodriguez
Nathan L Wilson and Rebekah D. Wilson, husband and wife
Kimberly Butler, an unmarried woman
Curtisco, LLC
Ty A. Curtis, Individually and as Trustee of the Ty A. Curtis Family Trust, U/T/D June 22, 2011
La Verne Edward Rathbun and Caroline June Rathbun
Dane G. Hulbert and Danette C. Hulbert, Individually and as Trustees of the Shields Family Trust, u/t/a dated September 24, 2014
Anita Zink, an unmarried person

Michael Bradley Ihli and Linda Marlene Ihli, Individually and as Trustees of the Michael Bradley Ihli and Linda Marlene Ihli Joint Living Trust
Robert W. Cross and Ginger H. Cross, husband and wife
Lori D. Bieker and Ashley Copeland (formerly Justin Core)
Lori Delehant, a married woman as her sole and separate property
Randy L. Bergquist and Kathie Bergquist, husband and wife
Brad J. Holt and Laura J. Holt, husband and wife
David H. Jeffries and Susan E. Jeffries, husband and wife

8. The Applicant ceased making efforts to reach an agreement with those individuals who had refused to speak with the landmen or engage in any negotiation from the outset, and who had requested that the Applicant not contact them again. Mr. Pepper stated in his affidavit and during his testimony that the highest bonus he had paid in the Proposed Spacing Unit was $100 per acre.

9. During the Hearing, Mr. Pepper testified that mineral owners who extended their leases pursuant to the option to extend, would be paid the same bonus of $100 per mineral acre, rather than the $50 per mineral acre as indicated in the Application.

10. The Application describes the five options for participating in the Proposed Spacing Unit as provided by Idaho law. Under Idaho Code § 47-322(c)(i)-(iv), a mineral interest owner may choose one of the following options: a) become a working interest participant and bear a proportionate cost of participating in a well as provided for in the joint operating agreement; b) become a nonconsenting working interest owner as provided for in the joint operating agreement, ultimately recovering as a proportionate share of the proceeds attributable to production from the well, as a carried interest, after incurring up to a 300% risk penalty; c) become a lessee, and agree to lease a mineral interest for a certain dollar amount as a bonus and receive a one-eighth (1/8) royalty on the share of production attributable to the mineral acres leased; d) become an objector, and be deemed to have leased the mineral interest in exchange for a 1/8 royalty interest attributable to the net mineral acreage; and e) become a mineral interest

owner who does not make an election in response to the notice of integration, in which case a party will be deemed to have leased their interest in exchange for a 1/8 royalty interest attributable to the net mineral acreage and bonus equal to what is paid by the operator to the other mineral interest owners in the Proposed Spacing Unit prior to issuance of any integration order.

11. The Application includes a proposed joint operating agreement form ("JOA") as Exhibit C and a lease form as Exhibit D, and Mr. Pepper testified that the Applicant was seeking a 300% risk penalty to be applied to nonconsenting working interest owners. The Applicant's JOA is the same JOA used with its partners.

12. The lease form attached to the Application as Exhibit D is the same form of lease, including bonus and royalty amounts, that has been offered to and signed by other mineral owners in the area.

13. In his affidavit and testimony, Mr. Pepper explained that the basis of the 300% penalty imposed on nonconsenting working interest owners is that "[t]he well to be drilled in the unit is a 'wildcat' well in an area of limited knowledge of and experience with the geology, entailing higher risk to Applicant than a well drilled in a fully developed area."

14. Mr. Pepper's affidavit describes additional risk factors justifying the 300% risk penalty, including the "technically complex" targeted conventional sand; lack of "developed infrastructure for making product from a successful well market ready and transporting product[;]" and "the frontier nature of the play in which the unit is located," making sourcing of drilling contractors and rigs more expensive.

15. By letter dated January 4, 2017, and addressed to Mr. Thum, Mr. Christian submitted three (3) revisions to the JOA as follows:

a. On page 5, Article VI.A, "Initial Well," will be returned to its original form without deletion, and the added sentence regarding no initial well and the Participation Agreement between AM Idaho, LLC and Bridge will be deleted.

b. On page 7, Article VI.B.2(b)(ii) and (c), the penalty for nonconsent for the items listed in those subparagraphs will be reduced from 500% to 300%.

c. On page 17b, Article XVI.D.1, the opening phrase will be amended to read, "Except as to the Initial Well, notwithstanding anything in this Operating Agreement to the contrary."

16. The revisions to the JOA are fair and reasonable, and in line with standard industry practice in the greater geographic region.

17. Mr. Dille provided testimony at the Hearing that he did not think the amount offered to him for leasing his minerals to the Applicants was sufficient, and that he had refused the Applicants' offers to enter into a lease.

18. Ms. Quade testified that she did not respond to the Applicants' attempts to contact her regarding leasing her mineral property, because she "had no intention to sell [her] oil and gas rights at this time."

19. Ms. Quade testified that her decision not to lease was based on multiple personal concerns, from potential water pollution to the relationship between oil and gas drilling and developmental disabilities in children.

20. Those individual mineral interest owners who submitted written responses did not provide any evidentiary basis to challenge the integration elements proposed by Applicant.

III. CONCLUSIONS OF LAW

1. The Idaho Oil and Gas Conservation Act ("Act") applies to all matters affecting oil and gas development on all lands located in the state of Idaho. Idaho Code § 47-319.

2. The Idaho Administrative Procedures Act codified at Title 67, Chapter 52 of the Idaho Code, and the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, *et. seq.*, also apply to the proceedings, to the extent that neither is superseded by the Act.

3. Under Idaho law, the 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 administer [the Act]." Idaho Code § 47-319(8). IDL is the administrative instrumentality of the Commission and the Director of IDL has authority over these proceedings pursuant to Idaho Code §§ 47-321, 47-322(a) and 47-324(c).

4. Idaho law requires that "[a]n order establishing spacing units shall specify the size and shape of the units . . . [that] will, in the opinion of [IDL], result in the efficient and economical development of the pool as a whole." Idaho Code § 47-321(2).

5. Under Idaho law, "[i]f at the time of a hearing to establish spacing units, there is not sufficient evidence to determine the area that can be efficiently and economically drained by one (1) well, the department may make an order establishing temporary spacing units for the orderly development of the pool pending the obtaining of information required to determine what the ultimate spacing should be." Idaho Code § 47-321(2)(a).

6. Thus, the Applicant must show sufficient evidence, geologic or otherwise, to establish that the Proposed Spacing Unit can be efficiently and economically drained by one (1) well.

7. Pursuant to the Idaho Administrative Procedures Act, 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).

8. Based on evidence and testimony presented at the Hearing and in the Application, the record does not reflect sufficient evidence that the Proposed Spacing Unit can be efficiently drained by one well.

9. Nevertheless, sufficient evidence was presented to support establishing a temporary spacing unit, in furtherance of orderly development of the pool until information can be obtained to establish appropriate spacing pursuant to Idaho Code § 47-321(2)(a).

10. While many jurisdictions have grappled with the lack of information available in new areas of oil and gas development, most have erred on the side of requiring more than one scientific tool in ascertaining the physical characteristics and reservoir dynamics necessary to determine the extent of correlative rights and protect the same. *See e.g., Hystand v. Industrial Commission,* 389 N.W.2d 590 (N.D. 1986); *Larsen v. Oil & Gas Conservation Commission,* 569 P.2d 87, 92 (Wyo. 1977) (the Wyoming Supreme Court held that minimum findings include "(1) the amount of recoverable oil in the pool; (2) the amount of recoverable oil under the various tracts; (3) the proportion that #1 bears to #2; and (4) the amount of oil that can be recovered without waste."); *Grace v. Oil Conservation Commission of New Mexico*, 531 P.2d 939 (N.M. 1975); and *Continental Oil Co. v. Oil Conservation Commission,* 373 P.2d 809 (N.M. 1962).

11. At the Hearing, the Applicant did not provide evidence of any of the well logs it reviewed, or charts or depictions of the structures into which it intended to drill. Because the area is undeveloped, this is an exploration play, and seismic is an uncertain and limited tool without drilling, all of which were established through the Applicant's testimony, the size, shape, and drainage area of the pool all require significant speculation. Further, the Applicant's evidence and testimony confirmed that absent information obtained from a producing well located in close proximity to the Proposed Spacing Unit, establishing the location and size of the target reservoir requires significant speculation.

12. Uncommitted Mineral Owners provided comments and expressed opposition to the Proposed Spacing Unit.

13. The lack of specific information or evidence beyond assertions from the Applicant regarding the location and extent of the target pool in the Proposed Spacing Unit is concerning because of the proximity of the Proposed Spacing Unit to existing residential development.

14. The Proposed Spacing Unit is located beneath portions of land where the record reflects that at least some residential development currently exists. Although the mineral estate is dominant over the surface estate, development of the mineral estate should be done in a reasonable and prudent manner so as to not unreasonably interfere with the established surface use. Care should be taken to ensure that the spacing unit is of approximate size and shape so as to efficiently and economically drain the pool with only one well. This will also ensure that correlative rights are protected, while limiting impacts to surface uses on only those acres necessary to explore, develop, and produce the reservoir.

15. Establishing a temporary spacing unit ensures that the fewest individuals necessary will be affected by Applicant's operations on the Subject Lands. If the additional geologic information obtained does not confirm the size of the pool, and the Proposed Spacing Unit could be reduced, this may result in fewer individuals' property being pooled.

16. Due to the distance between the target pool underlying the Proposed Spacing Unit and the reservoir from which drilling data had been obtained and analyzed by the Applicant, and the significant variability of the thickness and porosity of the targeted sands within the area, correlation between the two production areas could be improved with additional development of wells in adjacent areas.

17. The evidence and testimony presented established the likelihood of a productive pool underlying the Proposed Spaced Unit sufficient to support establishing a temporary spacing unit to facilitate the orderly development of the Proposed Spaced Unit until further development can occur that that will help define the target reservoir as claimed.

18. Once development occurs, additional information from well logs, interpretation of core samples, mud logs, or other means of establishing the source of production and the nature of the structure in which it occurs, may be used to confirm the location and extent of the reservoir underlying the Proposed Spacing Unit.

19. Such development must precede establishing the Proposed Spacing Unit as currently requested and proposed.

20. An eighteen-month time frame for achieving production, or establishing some other means of acquiring sufficient evidence of the reservoir size and location will provide the Applicant with the opportunity to pursue the Proposed Spacing Unit and proceed with orderly development of the Harmon area.

21. During the pendency of the temporary spacing unit, the Applicant also must establish production or other data sufficient to establish the pool's size and location.

22. Idaho law provides that "in the absence of voluntary integration, the department, upon the application of any owner in that proposed spacing unit, shall order integration of all tracts or interests in the spacing unit for drilling of a well or wells, development and operation thereof and for the sharing of production therefrom." Idaho Code § 47-322(a).

23. Under Idaho law, the Applicant is required to obtain an agreement to lease from owners of at least fifty-five percent (55%) of the total mineral interest within the Proposed Spacing Unit. Idaho Code § 47-322(d)(viii).

24. Based on the evidence provided at the Hearing and in the Application, and subject to the temporary term of the Proposed Spacing Unit, the Director concludes that the Application meets the minimum requirements for integration.

25. Based on the evidence presented, the Director concludes that it is appropriate to integrate the uncommitted mineral interest owners pursuant to Idaho Code § 47-322, with the express condition that said integration will be temporary for the same period of time as the temporary spacing.

26. The five alternatives for the uncommitted mineral interest owners to participate in the spacing unit are just and reasonable. The Applicant's proposed lease form contains just and reasonable terms to govern the relationship between the Applicants and uncommitted mineral interest owners who lease, fail to make an election, or choose to be objectors. The joint operating agreement with its revised terms contains just and reasonable terms to govern the relationship between the Applicants and the uncommitted mineral interest owners who elect to participate as working interest owners or nonconsenting working interest owners. As Mr. Pepper testified, the

terms of the proposed lease and the joint operating agreement are reasonable and are standard in the industry throughout the greater geographic region.

27. Given that the drilling of these proposed wells are speculative exploratory wells entailing a higher degree of risk; and the significant distance of the well sites from well service contractors and the significant mobilization costs for transporting a drill rig, a 300% risk penalty is just and reasonable. Thus, the Applicant shall be entitled to recover from the interest of any nonconsenting working interest owner three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well.

IV. ORDER

For the reasons stated above, pursuant to Idaho Code §§ 47-321 and 47-322 and based on the evidence in the record, the Director HEREBY GRANTS the Integration Application in Docket No. CC-2016-OGR-01-004 according to the terms and conditions requested by the Applicants *as modified by the terms and conditions contained herein.*

A. The Proposed Spacing Unit shall be granted for a temporary term of eighteen months from the date of this Order.

B. By or before the last day of the seventeenth month within in the eighteen-month period, the Applicant shall file an Application in this matter seeking a permanent spacing unit, under Idaho Code § 47-321.

C. In requesting the spacing unit as provided for herein, the Applicant shall provide additional production data, well logs, or other demonstrative evidence sufficient to establish the location of the Proposed Spacing Unit and the extent of the pool underlying the Subject Lands that one well will drain.

D. Such evidence must be more than merely asserting conclusions based on summaries of evidence not provided to IDL.

E. IDL should be provided with an opportunity to make an assessment of the evidence, and upon examination of the evidence, IDL should be prepared to provide the Director or other fact-finder with information that will assist in assessing the sufficiency of the evidence, from a technical perspective.

F. If the Applicant fails to file an Application to establish a spacing unit pursuant to Idaho Code § 47-321, the temporary unit ordered herein shall expire, and the Subject Lands, and all leased and unleased parties within the temporary unit shall be released from the temporary unit.

G. If and when production from the Subject Lands is achieved, proceeds attributable to production from lands within the temporary spacing unit shall be held in suspense until such time as a hearing on an application for a spacing unit can be held to determine whether sufficient evidence exists to confirm the Proposed Spacing Unit.

H. Proceeds attributable to production from the temporary spacing unit shall be paid into an interest-bearing account administered by a third party, escrow agent, or similar fiduciary; and shall be available for release to the Applicant for payment to the appropriate party immediately upon Applicant obtaining a spacing order under which each mineral interest owner's proportionate share can be determined and allocated.

I. Only one (1) well shall be drilled to and produced in this temporary spacing unit. The well must be drilled with a minimum setback of six hundred sixty (660) feet from the unit boundary.

J. Alta Mesa Services, LP is the designated Operator of the well to be drilled within this temporary spacing unit, and has the exclusive right to drill, equip, and operate the well within the temporary spacing unit. Accordingly, all separate tracts within the spacing unit are HEREBY INTEGRATED for the purpose of drilling, developing, and operating a well in the temporary spacing unit, and for the sharing of all production therefrom in the temporary spacing unit, in accordance with the terms and conditions of the above-captioned order.

K. Operations on any portion of a spacing unit will be deemed for all purposes the conduct of operations upon each separately owned tract in the spacing unit.

L. Production allocated or applicable to a separately owned tract included in the spacing unit shall, when produced, be deemed for all purposes to have been produced from that tract by a well drilled on that tract.

M. IT IS HEREBY ORDERED that from and after this date all production from this spacing unit be integrated and allocated among the interest owners therein according to the proportion that each mineral interest owners' net mineral acreage bears.

ALL UNCOMMITTED INTEREST OWNERS IN THE TEMPORARY SPACING UNIT ARE HEREBY NOTIFIED that they have 30 days from and after the date of the issuance of the above-captioned Order to make known to the Operator, Alta Mesa Services, LP, which of the following options they select for participation in the integrated spacing unit. This selection shall be made in writing, and addressed to:

Alta Mesa Services, LP
15021 Katy Freeway, Suite 400
Houston, TX 77094

by first class mail. Uncommitted mineral interest owners may either choose to participate as: a working interest owner; a non-consenting working interest owner; a leased interest; or as an objector.

A failure to notify the Operator, Alta Mesa Services, LP, within 30 days of this order shall result in that owner's interest being deemed leased. Consistent with Idaho Code § 47-322(c)(i) - (v), the available participatory options are:

> Participate as a working interest owner and pay the proportionate share of the actual costs of drilling and operating a well allocated to the owner's interest in the spacing unit. Working interest owners who share in the costs of drilling and operating the well are entitled to their respective shares of the production of the well. The operator of the integrated spacing unit and working interest owners shall enter into the joint operating agreement approved by the department in this order.
>
> Participate as a nonconsenting working interest owner, who refuses to share in the risk and actual costs of drilling and operating the well, but desires to participate as a working interest owner. Nonconsenting working interest owners are entitled to their respective shares of the production of the well, not to exceed one-eighth (1/8) royalty, until the operator of the integrated spacing unit has recovered three hundred percent (300%) of the nonconsenting working interest owner's share of the cost of drilling and operating the well under the terms set forth in joint operating agreement approved by the department in this order. After all the costs have been recovered by the consenting owners in the spacing unit, the nonconsenting owner is entitled to his respective shares of the production of the well, and shall be liable for his pro rata share of costs as if the nonconsenting owner had originally agreed to pay the costs of drilling and operating the well. The operator of the integrated spacing unit and nonconsenting working interest owners shall enter into a joint operating agreement approved by the department in this order.
>
> Enter into a lease with the operator of the spacing unit under the terms and conditions in the proposed lease Alta Mesa provided. The owner shall receive one-eighth (1/8) royalty and $100 per net mineral acre bonus payment and another $100 bonus for an extension on the lease term.
>
> Object to any participation or involvement of any kind in the unit. An objecting owner's interest will be deemed leased under the terms and conditions in the integration order. The owner shall receive one-eighth (1/8) royalty. An objecting owner may elect to have any funds to which he or she is entitled to transferred to the STEM action center.

> If an owner fails to make an election within the 30 days set forth in this order, such owner's interest will be deemed leased under the terms and conditions in this order. The owner shall receive one-eighth (1/8) royalty and a $100 per net mineral interest acre bonus payment and another $100 bonus for an extension on the lease term.

If one or more of the owners shall drill, equip, and operate, or operate, or pay the costs of drilling, equipping, and operating, or operating, a well for the benefit of another person as provided for the order, then such owners or owner shall be entitled to the share of production from the spacing unit accruing to the interest of such other person, exclusive of a royalty not to exceed one-eighth (1/8) of the production, until the market value of such other person's share of the production, exclusive of such royalty, equals the sums payable by or charged to the interest of such other person. The terms and conditions of the above-described orders are hereby determined to be just and reasonable.

Each owner will have thirty days (30) from issuance of this order to make an election and communicate his election in writing to Alta Mesa.

PROCEDURES & REVIEW

Pursuant to Idaho Code § 47-324(c) 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 § 47-324(d), 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 Director within fourteen (14) calendar days of the date of issuance of the Director's written decision. The date of issuance shall be January 20, which is three (3) calendar days after the Director 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

DATED this 17 day of January, 2017

KELLY A. WILLIAMS
Hearing Officer

THOMAS M. SCHULTZ, JR.
Secretary to the Commission and
Director of the Idaho Department of Lands