

IDAHO OIL AND GAS CONSERVATION COMMISSION OPEN MEETING CHECKLIST

FOR MEETING DATE: March 14, 2018

**Regular Meetings**

3/6/18	Notice of Meeting posted in prominent place in IDL's Boise Headquarters office five (5) calendar days before meeting.
3/6/18	Notice of Meeting posted in prominent place in IDL's Coeur d'Alene Headquarters office five (5) calendar days before meeting.
3/6/18	Notice of Meeting posted in prominent place at meeting location five (5) calendar days before meeting.
3/6/18	Notice of Meeting emailed/faxed to list of media and interested citizens who have requested such notice five (5) calendar days before meeting.
3/12/18	Agenda posted in prominent place in IDL's Boise Headquarters office forty-eight (48) hours before meeting.
3/12/18	Agenda posted in prominent place in IDL's Coeur d'Alene Headquarters office forty-eight (48) hours before meeting.
3/12/18	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
3/12/18	Agenda emailed/faxed to list of media and interested citizens who have requested such notice forty-eight (48) hours before meeting.
12/18/17	Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA

**Special Meetings**

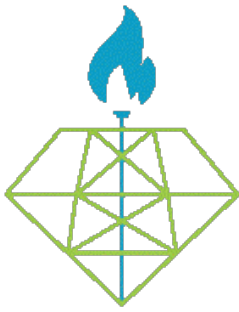
	Notice of Meeting and Agenda posted in a prominent place in IDL's Boise Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted in a prominent place in IDL's Coeur d'Alene Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted at meeting location twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Emergency situation exists – no advance Notice of Meeting or Agenda needed. "Emergency" defined in Idaho Code § 74-204(2).

**Executive Sessions**

	If Executive Session only to be held, Notice of Meeting and Agenda posted in IDL's Boise Headquarters office twenty-four (24) hours before meeting.
	If Executive Session only to be held, Notice of Meeting and Agenda posted in IDL's Coeur d'Alene Headquarters office twenty-four (24) hours before meeting.
	If Executive Session only to be held, Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Notice contains reason for the executive session and the applicable provision of Idaho Code § 74-206 that authorizes the executive session.

*Kourtney Romie*  
 RECORDING SECRETARY

3/12/18  
 DATE



## IDAHO OIL AND GAS CONSERVATION COMMISSION

Kevin Dickey, Chairman  
Marc Shigeta, Vice Chairman  
Dr. Renee Breedlovestrout, Commissioner  
Jim Classen, Commissioner  
David Groeschl, Commissioner  
  
Mick Thomas, Secretary to the Commission

# NOTICE OF PUBLIC MEETING MARCH 2018

The Idaho Oil and Gas Conservation Commission will hold a Regular Meeting on **Wednesday, March 14, 2018** at the **Borah Building, 2nd Floor Courtroom (Room 214), 304 N. 8th St. (at Bannock), Boise, Idaho**. The meeting is scheduled to begin at **1:00 pm (MT)**.

*Please note meeting location and time.*

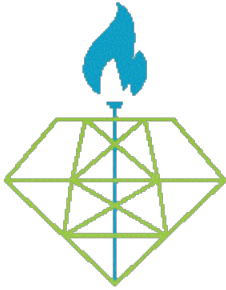
IDAHO OIL & GAS  
CONSERVATION COMMISSION

First Notice Posted: 3/6/2018-IDL Boise; 3/6/2018-IDL CDA

***The Idaho Oil and Gas Conservation Commission is established by Idaho Code § 47-314.***

*Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702*

This notice is published pursuant to § 74-204 Idaho Code. For additional information regarding Idaho's Open Meeting law, please see Idaho Code §§ 74-201 through 74-208.



IDAHO OIL AND GAS CONSERVATION COMMISSION

Kevin Dickey, Chairman  
Marc Shigeta, Vice Chairman  
Dr. Renee Breedlovestrout, Commissioner  
Jim Classen, Commissioner  
David Groeschl, Commissioner

Mick Thomas, Secretary to the Commission

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Final Agenda

Idaho Oil and Gas Conservation Commission Regular Meeting

March 14, 2018 – 1:00 PM (MT)

Borah Building, 2nd Floor Courtroom (Room 214), 304 N. 8th St. (at Bannock), Boise, Idaho

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***Please note meeting time and location.***

- **ANNOUNCEMENTS**

*Public comment will be taken on items listed below.*

- 1. **Division Administrator's Report**

- A. Financial Update
- B. Current Oil and Gas Activity
- C. Class II Underground Injection Control Program Update

- **CONSENT**

- 2. **Approval of Minutes** – February 14, 2018 - Regular Meeting (Boise)

- **REGULAR**

- 3. **Data Access Policy** – *Presented by James Thum, Program Manager – Oil and Gas*

- **INFORMATION**

- 4. **Unitization and Spacing** – *Discussion Request from Commissioner Jim Classen*

- **EXECUTIVE SESSION**

None

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Idaho Oil and Gas Conservation Commission  
Final Agenda  
Regular Meeting (Boise) – March 14, 2018  
Page 1 of 1



## Idaho Statutes

TITLE 74  
TRANSPARENT AND ETHICAL GOVERNMENT  
CHAPTER 2  
OPEN MEETINGS LAW

74-206. Executive sessions — When authorized. [effective until July 1, 2020] (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;
  - (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;
  - (c) To acquire an interest in real property which is not owned by a public agency;
  - (d) To consider records that are exempt from disclosure as provided in [chapter 1, title 74](#), Idaho Code;
  - (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;
  - (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;
  - (g) By the commission of pardons and parole, as provided by law;
  - (h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;
  - (i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or
  - (j) To consider labor contract matters authorized under section 67-2345A [\[74-206A\]](#)(1)(a) and (b), Idaho Code.
- (2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.
- (3) No executive session may be held for the purpose of taking any final action or making any final decision.

History:

[74-206, added 2015, ch. 140, sec. 5, p. 371; am. 2015, ch. 271, sec. 1, p. 1125.]



# IDAHO OIL & GAS CONSERVATION COMMISSION

**Oil and Gas Regulatory Program  
Activities Report as of February 28, 2018  
Fund 0075-14 Oil and Gas Conservation Fund Cash Flow Report**

		Current Month	Year-to-Date
<b>Beginning Cash Balance 7/1/2017</b>	230,174.75		
Permits		0.00	10,600.00
*Severance Tax		8,777.81	85,508.22
Refund (previous year)		0.00	0.00
Other (transfer to GF)		0.00	0.00
<b>Total</b>		8,777.81	96,108.22
Personnel Expenditures		0.00	(1,289.93)
Operating Expenditures		(1,509.71)	(16,858.32)
P-Card Liability to be paid			28.03
<b>Ending Cash Balance 2/28/2018</b>			308,162.75

\*The Idaho Tax Commission transfers 60% of the 2.5% Severance Tax to Fund 0075-14 Oil and Gas Conservation Fund to defray the expense of the Oil and Gas Commission.

**General Fund Regulatory Program Expenditures Report**

**Prior Year Encumbrances from General Fund**

		Appropriation Held Over from FY17	Current Month	Year-to-Date	Balance
CTR17420-01					
GWPC - Ground Water Protection	20,000.00		20,000.00	20,000.00	0.00

**Expenditures from General Fund FY18**

		Appropriation	Current Month	Year-to-Date	Balance
<b>PCA 55000 Expenses</b>					
PC	432,100.00		37,300.32	257,526.41	174,573.59
OE	102,000.00		2,587.88	46,590.90	55,409.10
CO	0.00		0.00	0.00	0.00
<b>Total</b>	534,100.00		39,888.20	304,117.31	229,982.69

**Dedicated Fund Regulatory Program Expenditures Report**

**Expenditures from Dedicated Fund FY18**

		Appropriation	Current Month	Year-to-Date	Balance
<b>PCA 55070 Expenses</b>					
PC	95,100.00		0.00	1,289.93	93,810.07
OE	85,000.00		262.71	15,611.32	69,388.68
CO	1,300.00		1,247.00	1,247.00	53.00
<b>Total</b>	181,400.00		1,509.71	18,148.25	163,251.75



# Southwest Idaho Oil & Gas Activity Map



## Legend

<b>Active Oil and Gas Wells</b>		<b>Inactive Oil and Gas Wells</b>		Township
Shut in Gas	Plugged and Abandoned (P&A) Gas Show	Sections	Counties	<b>Surface Ownership</b>
Producing - Multi Zone	Plugged and Abandoned	Bureau of Land Management	Idaho Mineral Estate	
Producing	APD Submitted			
Permitted	Highway			
	Approved Integration			
	Integration Request			

No.	US Well Number	Operator	Well Name	Status
1	11-075-20004	Alta Mesa Services, LP	Espino #1-2	Shut in
2	11-075-20005	Alta Mesa Services, LP	State #1-17	Shut in
3	11-075-20007	Alta Mesa Services, LP	ML Investments #1-10	Shut in
4	11-075-20009	Alta Mesa Services, LP	Island Capitol #1-19	Shut in
5	11-075-20011	Alta Mesa Services, LP	Tracy Trust #3-2	Shut in
6	11-075-20013	Alta Mesa Services, LP	White #1-10	Shut in
7	11-075-20014	Alta Mesa Services, LP	Korn #1-22	Shut in
8	11-075-20020	Alta Mesa Services, LP	DJS Properties #1-15	Producing
9	11-075-20022	Alta Mesa Services, LP	ML Investments #2-10	Producing
10	11-075-20023	Alta Mesa Services, LP	DJS Properties #2-14	Shut in
11	11-075-20024	Alta Mesa Services, LP	Kauffman #1-34	Producing
12	11-075-20025	Alta Mesa Services, LP	ML Investments #1-11	Producing
13	11-075-20026	Alta Mesa Services, LP	ML Investments #1-3	Producing
14	11-075-20027	Alta Mesa Services, LP	Kauffman #1-9	Producing
15	11-075-20029	Alta Mesa Services, LP	ML Investments #2-3	Producing
16	11-075-20031	Alta Mesa Services, LP	ML Investments #3-10*	Completed
17	11-075-20032	Alta Mesa Services, LP	Fallon #1-10*	Under Construction
18	11-075-20033	Alta Mesa Services, LP	Barlow #1-14*	Under Construction
19		Alta Mesa Services, LP	Barlow #2-14*	Pending
			*Confidential Well status per Idaho Code § 47-327	

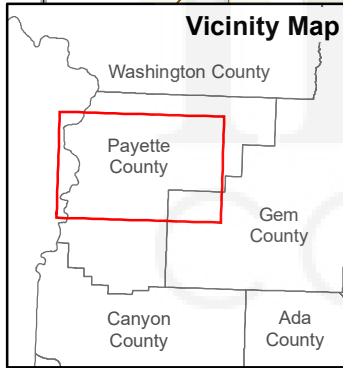
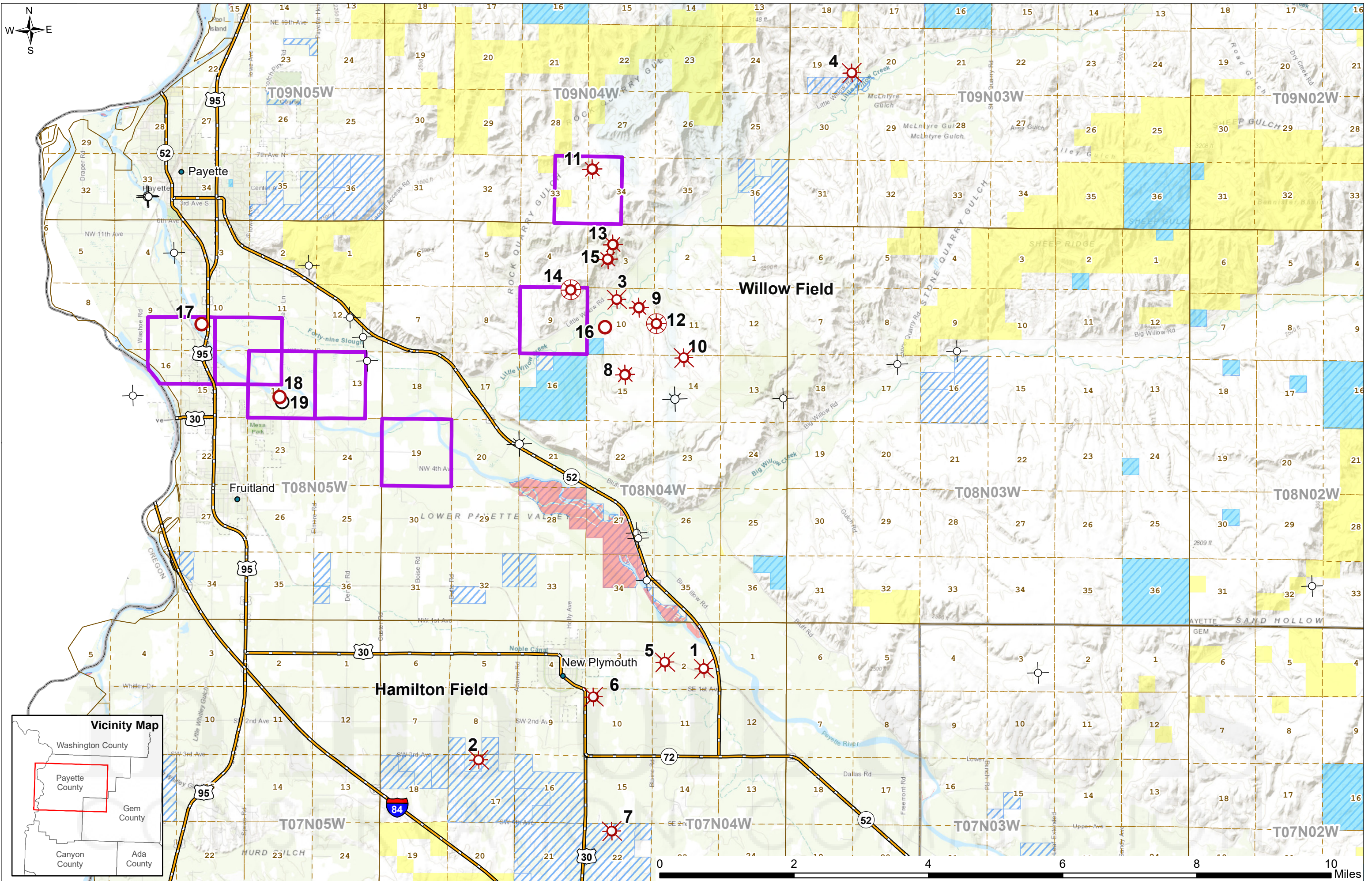
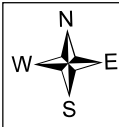
**Map Notes and Data Sources**

Inactive and Active Oil And Gas Wells through 3/9/2018

Data Sources: Idaho Department of Lands and Idaho Geological Survey

**Disclaimer:**

This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.







# Eastern Idaho Oil & Gas Activity Map



## Legend

### Active Oil and Gas Wells

- Shut in Gas
- Producing - Multi Zone
- Producing
- Permitted

### Inactive Oil and Gas Wells

- Plugged and Abandoned (P&A) Gas Show
- Plugged and Abandoned
- APD Submitted

- Approved Integration
- Integration Request
- 2014 Seismic
- BLM Nominations
- IDL Nominations
- Drill Site
- Township
- Sections
- Counties
- Highway

### Surface Ownership

- Bureau of Land Management
- Idaho Fish and Game
- Idaho Department of Land
- Idaho Mineral Estate

No.	US Well Number	Operator	Well Name	Status
1	11-019-20011	CPC Mineral, LLC	CPC Minerals LLC #17-1	Plugged and Abandoned
2	11-019-20014	CPC Mineral, LLC	Federal #20-3	Plugged and Abandoned

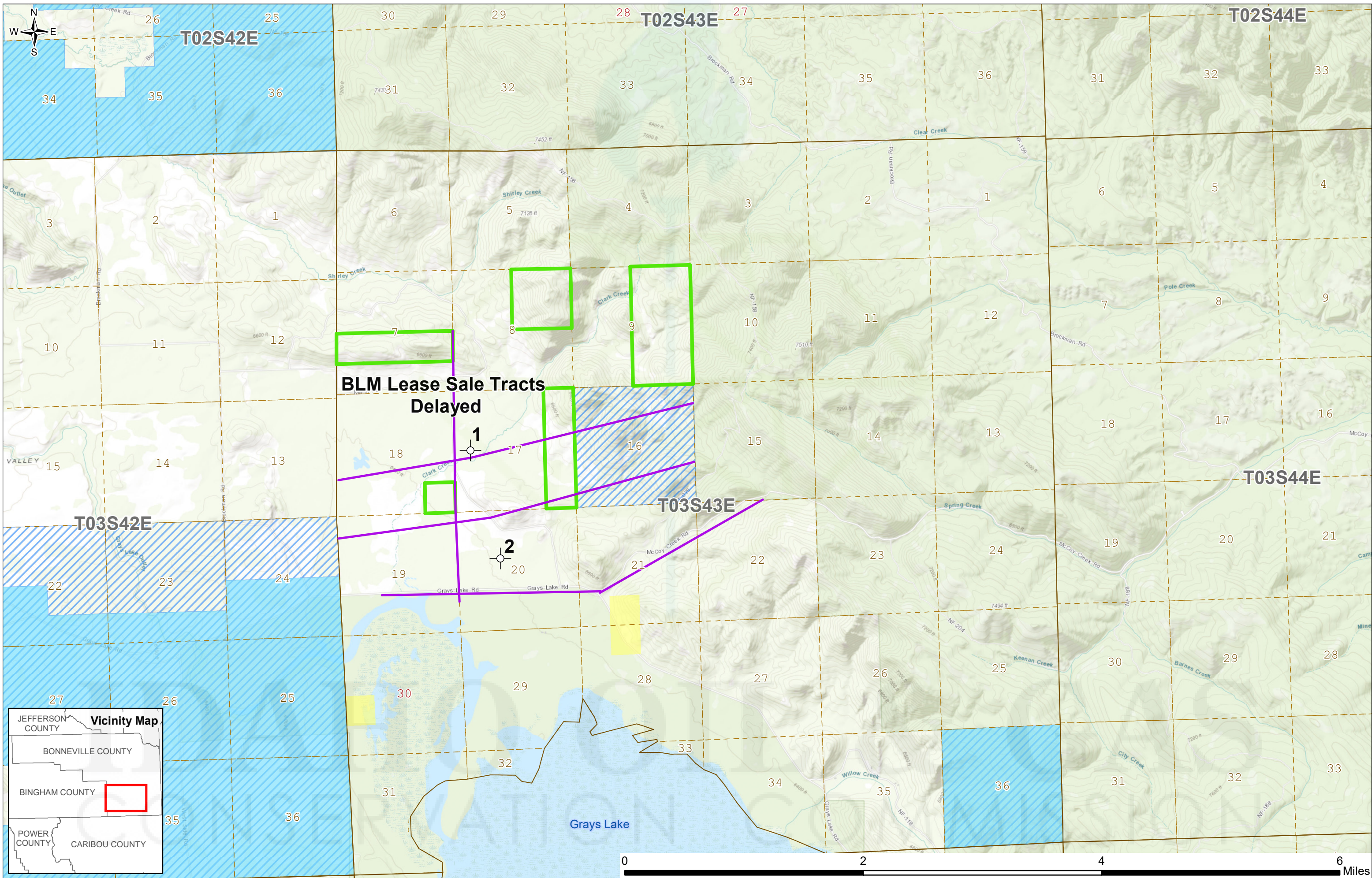
#### Map Notes and Data Sources

Inactive and Active Oil And Gas Wells through 2/12/2018

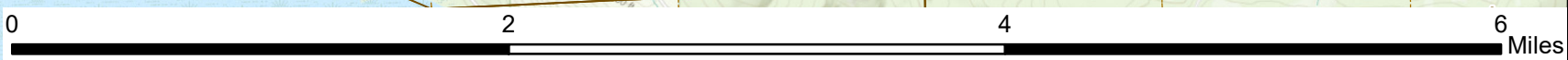
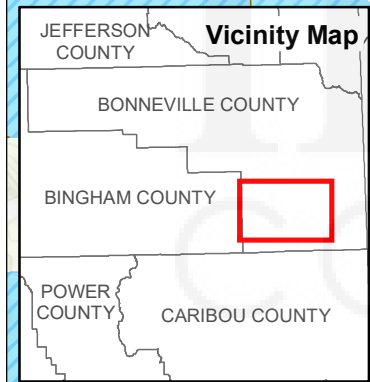
Data Sources: Idaho Department of Lands and Idaho Geological Survey

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**BLM Lease Sale Tracts  
Delayed**



## Class II Underground Injection Control Program Update

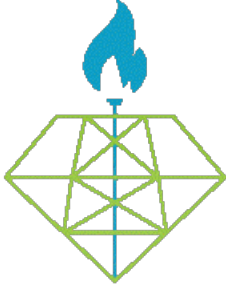
In summer of 2017, the state of Idaho asked the Environmental Protection Agency (EPA) to accept the transfer of primacy over Class II Injection wells from the state to the EPA. As part of the process, the EPA accepted public comment on the transfer from November 21, 2017 to January 11, 2018, with a public hearing held on January 8, 2018. The docket number is EPA-HQ-OW-2017-0584.

The EPA received 294 comments during the comment period. Many of the comments were not directly related to the order; however, the EPA is drafting a response to comments that will be attached to the action/decision on whether or not to grant transfer.

There is not a set date when the final action will be released, however, the EPA estimates the action will be completed within the initial time frame and is aiming for a late summer decision.



IDAHO OIL & GAS  
CONSERVATION COMMISSION



IDAHO OIL AND GAS CONSERVATION COMMISSION

Kevin Dickey, Chairman  
Marc Shigeta, Vice Chairman  
Dr. Renee Breedlovestrout, Commissioner  
Jim Classen, Commissioner  
David Groeschl, Commissioner

Mick Thomas, Secretary to the Commission

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Draft Minutes  
Idaho Oil and Gas Conservation Commission Regular Meeting  
February 14, 2018

The regular meeting of the Idaho Oil and Gas Conservation Commission was held on Wednesday, February 14, 2018, in the Borah Building, 2nd Floor Courtroom (Room 214), 304 N. 8th St. (at Bannock), Boise, Idaho. The meeting began at 1:00 p.m. Chairman Kevin Dickey presided. The following members were present:

Vice Chairman Marc Shigeta  
Commissioner Renee Breedlovestrout (via teleconference)  
Commissioner Jim Classen  
Commissioner David Groeschl

For the record, all five Commission members were present with Commissioner Breedlovestrout joining via teleconference.

• **ANNOUNCEMENTS**

Chairman Kevin Dickey announced that there will be no public comment taken but at the end of the meeting, he will ask if anyone wishes to speak.

Secretary Mick Thomas thanked Acting Director David Groeschl for sitting on the Oil and Gas Conservation Commission. Secretary Thomas gave a brief background on Commissioner Groeschl.

**1. Division Administrator's Report**

- A. Financial Update
- B. Current Oil and Gas Activity

*DISCUSSION:* Chairman Dickey inquired about the status of the Barlow #2-14 application and if it was still pending. Secretary Thomas confirmed that it was pending. Commissioner Classen requested clarification on what pending means. Secretary Thomas noted that the application is on hold until the operator determines how they want to move forward. Commissioner Classen asked if the operator was completing more than one well in Section 14; Secretary Thomas stated that he could not speak conclusively about the operator's intentions.

Secretary Thomas provided information on other items of interest in oil and gas. The Idaho Department of Lands Eastern Area Office received an application for a land use permit for a 12-mile 2D seismic program for geothermal well exploration 12.5 miles south of the Federal # 20-3 well. The Oil and Gas Division [Division] provided comments and advised the Eastern Office staff to request further information. The Idaho Department of Lands [Department] does not have jurisdiction over granting the 2D seismic permit since it is for geothermal exploration not oil and gas. The Idaho Department of Water Resources (IDWR) was notified as a courtesy and has provided comment. IDWR permits geothermal well applications.

Secretary Thomas remarked that per IDAPA 20.07.02.500.03, operators are required to submit an annual report for active wells they operate in the state. The Department has received this report from Alta Mesa but has requested some revisions and clarifications to the report; it is not yet considered to be complete. The Division requested a response by February 14, 2018 but as of February 13, 2018, a response has not been received. Vice Chairman Marc Shigeta wondered if completion dates for wells can be found on the website for. Secretary Thomas said yes, that information is on the Data Explorer page and added that wells with confidential status are not on the website [<https://ogcc.idaho.gov/>]. Vice Chairman Shigeta inquired if the ownership information of wells is on the website. Secretary Thomas replied that he was not sure but would look into that.

Secretary Thomas informed the Commission that the Oil and Gas Division has hired an Oil and Gas Field Inspector, Dave Schwarz. A brief background on Mr. Schwarz was given. Secretary Thomas stated that there was no information to report on the status of the Oil and Gas Royalty Audit. The contractor, Opportune, had additional questions for Alta Mesa and hopes to have the complete report this spring. Secretary Thomas announced that the Department is in the process of hiring a hearing officer in response to the Kauffman Complaint toward Alta Mesa and hopes to finalize the contract this week.

Secretary Thomas mentioned that the Division is in communication with the Payette High School to use their auditorium as the location for the April 11, 2018 Commission meeting.

Chairman Dickey asked about the status of un-redacting some information in documents that is on the Commission website. Secretary Thomas answered that the Division is working on that and it will be completed soon.

- **CONSENT**

- 2. **Approval of Minutes** – January 10, 2018 - Regular Meeting (Boise)

*CONSENT AGENDA COMMISSION ACTION:* A motion was made by Vice Chairman Shigeta that the Commission approve the meeting minutes on the Consent Agenda. Commissioner Groeschl seconded the motion. The motion carried on a vote of 5-0.

- **REGULAR**

- 3. **Cure an Open Meeting Law Violation**

*COMMISSION ACTION:* For the record, this agenda item does not require a vote by the Commission.

Chairman Dickey announced that the Commission publicly recognizes that it has violated the Open Meeting Law. The Commission intends to cure the violation pursuant to Idaho Code § 74-208. On January 23, 2018, Commissioner Classen sent an email to two other Commissioners that discussed his opinion on production and testing volumes and records. One Commission member distributing an opinion on a matter pending before the Commission and two other Commissioners receiving that opinion constitutes “deliberation” as that term is defined in the Open Meeting Law. Deliberation means “the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.” Idaho Code § 74-202(2). Meetings are “the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.” Idaho Code § 74-202(6). The Open Meeting Law requires that all meetings of the Commission, including deliberations toward a decision, are open to the public.

The Commission has been advised by counsel that non-public deliberations, such as this e-mail, are not permissible under the Open Meeting Law and shall not occur in the future. Because the Commission took no action as a result of this e-mail, there is no action to be voided. But, in order to assure the public that no private deliberations have occurred, the e-mail is included in the meeting record. Further, the Commission’s next agenda item will discuss the Commission requesting the records of production and testing volumes. With these actions, the Commission has initiated the cure process of the Open Meeting Law.

**4. Idaho Code § 47-315 – Commission Request to Examine Records of Produced Volumes of Oil and Gas from February 2013 to Present**

*RECOMMENDATION:* The Department recommends that the Commission vote on whether or not to request the examination of quantities produced from Alta Mesa wells within the past five years as per Idaho Code § 47-315(5)(i).

*DISCUSSION:* After Secretary Thomas gave some background on this topic, Chairman Dickey asked why the Commission needed to be involved in this process instead of the staff. Secretary Thomas responded that Idaho Code § 47-315 specifies that the Commission has the authority to request the records. Commissioner Classen stated that he believed that Alta Mesa produced good records where they thought appropriate; some individuals feel that not all the data that was pertinent has been forthcoming for the basic purpose of having appropriate and proper records for the state. He added that from the initial completion of the wells, in some cases fairly extensive testing has taken place, which did not make Department record-keeping due to various interpretations of past regulations. Commissioner Classen noted that the recent change of statute allows this data to now be reported.

Commissioner Classen described that because of the nature of the producing zones here in Idaho, there are four types of products produced that should be recorded and available to the public from the start of initial well production in the state: gas condensate, natural gas, liquids and oil. Commissioner Classen indicated the type of data that the state should require and receive would be

all oil production, all condensate production coming out of the processing facility, all natural gas liquids coming out of the processing facility, and all condensate coming out of the facility. Chairman Dickey noted that water is also produced. Commissioner Classen acknowledged water but observed that it unfortunately has little economic value, otherwise all mineral interest owners would have more severance tax.

*COMMISSION ACTION:* A motion was made by Commissioner Classen to request information from the operator on detailed production records from the initial testing forward on the wells to date. Vice Chairman Shigeta seconded the motion confirming that it included the last five years of data. The motion carried on a vote of 5-0.

*Background information was provided by the presenter indicated below. No Commission action is required on the Information Agenda.*

- **INFORMATION**

**5. Revised Monthly Reporting Forms** – Presented by Mick Thomas, Division Administrator – Oil and Gas

- **EXECUTIVE SESSION**

None

Chairman Dickey opened the floor for public comment. There was no response and no public comment was taken.

There being no further business before the Commission, at 1:30 p.m. a motion to adjourn was made by Commissioner Classen. Commissioner Groeschl seconded the motion. The motion carried on a vote of 5-0. Meeting adjourned.



IDAHO OIL AND GAS CONSERVATION COMMISSION  
March 14, 2018  
Regular Agenda

SUBJECT

Oil and Gas Division – Data Access Policy

BACKGROUND

The Idaho Oil and Gas Conservation Commission (Commission) receives information related to oil and gas exploration and production in the state of Idaho. The Idaho Department of Lands (Department), as part of its administrative duties for the Commission, keeps this information on file. Some of the information may be exempt from disclosure under the Idaho Public Records Act.

The Oil and Gas regulatory program is housed in the Oil and Gas Division within the Department. The Oil and Gas Division and the Commission recognize the importance of establishing a policy and procedure to keep this information secure.

DISCUSSION

The Department and the Commission recognize the importance of establishing a policy and procedure to keep confidential information secure. This procedure will provide clear expectations and policy in regards to the retention of oil and gas files containing confidential information.

Establishing effective communication and clear understanding between Department employees, the Commission, other agencies, industry, and the public will help ensure that all confidential information is protected and secure.

RECOMMENDATION

The Department recommends the Commission approve the Data Access Policy.

COMMISSION ACTION

ATTACHMENTS

1. Oil and Gas Division – Data Access Policy





# Idaho Department of Lands

Department Policy # OGCC-2018-001

Oil and Gas Division -- Data Access Policy

Effective Date: TBD

IDAHO OIL & GAS  
CONSERVATION COMMISSION



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## 1. BACKGROUND

The Idaho Oil and Gas Conservation Commission (Commission) receives information related to Idaho oil and gas exploration and production. Files include, but are not limited to, records of drilling and well logs, applications, production data, completion reports, geologic maps, and seismic data. Some of these records contain information that may be exempt from disclosure under the Idaho Public Records Act.

The Oil and Gas program is housed in the Oil and Gas Division. The Oil and Gas Division and the Commission recognize the importance of establishing a policy and procedure to keep this information secure.

## 2. PURPOSE

The purpose of this Department policy is to provide clear expectations and policy in regards to the storage, maintenance, and retention of Oil and Gas Files which may contain Confidential Information. This policy is also to establish effective communication and clear understanding between Department employees, the commission, other agencies, industry, and the public to ensure that all confidential information is protected and secure.

## 3. APPLICABILITY

This Department Policy is to be followed for the receipt, processing, storage, maintenance, and retention of Oil and Gas Files which may contain Confidential Information. Examples of files include but are not limited to: well files, seismic files, hearing files, Commission files, and geologic maps.

## 4. ASSOCIATED STATUTES, ADMINISTRATIVE RULES AND OTHER REFERENCES

- Idaho Code § 47-326
- Idaho Code § 47-327
- Idaho Code § 74-107
- Idaho Code § 74-108
- IDAPA 20.07.02
- Records Retention Schedule for State Government Agencies, Records Management Guide Appendix 9: Idaho Department of Lands (Revised 7/26/2016)

## 5. EXCEPTION AUTHORIZATION

Any deviation from the processes outlined in this policy must be authorized by the Oil and Gas Division Administrator. Deviation from the applicable legal authorities is not authorized. Any questions about what is required by the applicable legal authorities should be directed to the Deputy Attorney General and Oil and Gas Division Administrator.

## 6. ACRONYMS / ABBREVIATIONS

Department - Idaho Department of Lands, Oil and Gas Division

Commission – Idaho Oil and Gas Conservation Commission

## 7. DEFINITIONS

Commissioner- Active Member of the Idaho Oil and Gas Conservation Commission.

Commission Briefing Page- Sharepoint page administered by the Department and used by the Commission to review or download electronic documents as part of their duties.

Confidential Information- Information that may be exempt from disclosure under the Public Records Act (Idaho Code §§ 74-107 and 108).

Department Office: 300 N 6<sup>th</sup> Street, Suite 103, Boise, ID 83702

Division Administrator- In this policy, reference to Division Administrator is specific to the Oil and Gas Division Administrator only.

Federal Agency- Other Federal Agency that the Oil and Gas Division will likely come in contact with, such as the Bureau of Land Management or Environmental Protection Agency.

File Maintenance- Copying, scanning, shredding, organizing or similar activities related to the handling of oil and gas files.

Master Track- Electronic tracking system for monitoring the movement of files into and out of the Records Room.

M-drive- Internal Idaho Department of Lands network hard drive on which electronic oil and gas division files are stored.

Oil and Gas Division Employees- Oil and Gas Division Administrator, Oil and Gas Program Manager, Oil and Gas Information Specialist, Oil and Gas Inspector, and Oil and Gas Administrative Assistant.

Oil and Gas Files- Files within the Oil and Gas Division that may contain Confidential Information. Examples of files include but not limited to: well files, seismic files, hearing files, Commission files, and geologic maps.

"Out" Card- Letter or legal-sized card used to mark the location of a hard copy file or folder that has been removed from its place in the Records Room.

Program Manager- In this policy, reference to Program Manager is specific to the Oil and Gas Division Program Manager only.

Records Room- Secured room located in the basement at the Idaho Department of Lands Boise Staff Office where Department records from all programs are held. Employee badge is required to access this room.

Sharepoint Pages- Idaho Department of Lands internal server used by all departments to post working documents, links, policies calendars and other key documents utilized by each department. The sharepoint pages can only be accessed externally by an employee log-in or internally on an Idaho Department of Lands computer terminal.

Oil and Gas Division page- Web page for the Idaho Department of Lands Oil and Gas Division, accessible to the public.

Oil and Gas Commission page- Web page for the Idaho Oil and Gas Conservation Commission, accessible to the public.

State Agencies- Other State Agencies the Oil and Gas Division will likely come in contact with are: Idaho Department of Water Resources, Idaho Department of Environmental Quality, Idaho Geological Survey, Deputy Attorney General's Office, Idaho Tax Commission, and Idaho Public Utilities Commission.

## **8. POLICY FOR DEPARTMENT EMPLOYEES AND COMMISSIONERS**

### **A. Department Access to Oil and Gas Files**

The Department will limit access to oil and gas files that may contain confidential information to Department Employees that require access to carry out the person's duties on behalf of the Department.

#### **1. Paper Files**

Paper files are stored in a Records Room at the Boise Staff Office. The Oil and Gas Row has columns of shelves where the files are held that can be closed and locked.

Well files for wells that are pending or under construction as well as current hearing files are locked in the cabinet in the Oil and Gas Administrative Assistant's office with approval from the Division Administrator or Program Manager.

#### **a. Access to files – Department Employees**

i. Department Employees with a badge can access the Records Room but only Oil and Gas Division employees have access to the keys to unlock the shelves where the files are held. All Department employees who will have access to these files must read, understand and sign the confidentiality policy before reviewing files, including those of the Oil and Gas Division.

ii. The following personnel will always have access to the oil and gas row where paper files are stored:

- Oil and Gas Division Employees

iii. The following Department Employees have a copy of the key to the oil and gas row where the files are kept:

- Program Manager
- Oil and Gas Administrative Assistant
- Other Oil and Gas Division employees are aware of where one copy of the keys are located.

iv. Oil and Gas Division Employees, other than the Division Administrator and Program Manager can only access the files Monday-Friday from 8:00am-5:00pm. Weekend and before/after hour access will need approval from and be under the supervision of the Division Administrator or Program Manager.

v. Procedure for removing paper files

- Files with a barcode will be scanned out with appropriate information put in the Master Track System
- Files without a barcode will be logged with an “Out” card.

b. Access to files- Commissioners:

i. The Division Administrator or Program Manager must be notified in writing by Commissioners when requesting access to files. Commissioners may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an Oil and Gas Division Employee.

ii. Commissioners must have an employee from the Oil and Gas Division retrieve the files they want to review from the Records Room for them. Commissioners are not to go in the Records Room. The Records Room contains confidential files outside of the Oil and Gas Division and outside of the scope of the Commissioners access. Each Commissioner must read, understand and sign this policy before reviewing files.

iii. Commissioners can only access the files Monday-Friday from 8:00am-5:00pm. Weekend and before/after hour access will need approval from and be under the supervision of the Division Administrator or Program Manager.

## 2. Electronic Files

### a. M-Drive

Access to electronic files on the M-drive will be restricted to Oil and Gas Division employees and some other Department employees that may do some work in the oil and gas program. Oil and Gas Division employees have unlimited access to all oil and gas electronic files.

Commissioners must have an employee from the Oil and Gas Division log into a computer and retrieve the files they want to look at from the appropriate electronic locations. Commissioners are not to have access to any other Department electronic files outside of oil and gas. This policy covers only oil and gas related files. The Division Administrator or Program Manager must be notified in writing of Commissioners accessing files. Commissioners may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an Oil and Gas Division Employee.

b. Sharepoint- Oil and Gas Division Page

Access to electronic files on Sharepoint will be restricted to Oil and Gas Division employees and some other Department employees that may do some work in the oil and gas program. Appropriate Deputy Attorneys General will also have access to the Oil and Gas Division Page on Sharepoint.

Commissioners will not have remote access to the Oil and Gas Division page on Sharepoint. Commissioners must have an employee from the Oil and Gas Division log into a computer and retrieve the files they want to look at from the appropriate Oil and Gas Division Sharepoint page. Commissioners are not to have access to any other Department Sharepoint pages outside of oil and gas. This policy covers only oil and gas related files. The Division Administrator or Program Manager must be notified in writing of Commissioners accessing the Oil and Gas Division Sharepoint page. Commissioners may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an Oil and Gas Division Employee.

c. Sharepoint- Oil and Gas Commission Page

Access to the Oil and Gas Commission page on Sharepoint will be restricted to Oil and Gas Division employees and some other Department employees that may do some work in the oil and gas program. Appropriate Deputy Attorneys General will also have access to the Oil and Gas Commission Page on Sharepoint.

Commissioners will not have remote access to the entire Oil and Gas Commission page on Sharepoint. Commissioners will have access to one page called "Confidential Documents". Commissioners must have an employee from the Oil and Gas Division log into a computer and retrieve the files they want to look at from the appropriate Oil and Gas Commission Sharepoint page. Commissioners are not to have access to any other Department Sharepoint pages outside of oil and gas. This policy covers only oil and gas related files. The Division Administrator or Program Manager must be notified in writing of

Commissioners accessing the Oil and Gas Division Sharepoint page. Commissioners may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an oil and gas Division Employee.

d. Commission Briefing Page

The Commission Briefing page is accessible by the Commissioners, Oil and Gas Deputy Attorneys General, Oil and Gas Division Staff, and some other Department Employees.

Commissioners will have the ability to log in remotely through the Oil and Gas Commission website to access commission meeting materials and other documents as part of their commission duties. Access to the Briefing Page is password protected. Commissioners, Oil and Gas Deputy Attorneys General, Oil and Gas Division Staff, and some other Department Employees will be provided a password by the Administrative Assistant with the approval of the Division Administrator.

**9. Other State and Federal Agencies, Contractors, Legislators and Land Board Access**

Persons as listed in item 9 above other than Department employees and Commissioners can access files when necessary to use the information for working with the Oil and Gas Commission or Oil and Gas Division on specific projects related to the oil and gas program.

A. Access to Paper Files

1. Access must be approved by the Division Administrator or Program Manager. These persons may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an Oil and Gas Division Employee.

2. Approval to access files must be in written form and signed by the Division Administrator or Program Manager. Approval can be given electronically.

3. For those listed in Item 9 above must have an employee from the Oil and Gas Division retrieve the files they want to look at from the Records Room for them. These people are not to go in the Records Room. The Records Room contains confidential files outside of the Oil and Gas Division and outside of the scope of their access.

4. Each person listed in Item 9 must read and sign the confidentiality policy before reviewing files.



## B. Access to Electronic Files

1. Access must be approved by the Division Administrator or Program Manager. These persons may, at the discretion of the Division Administrator or Program Manager, or at the request of the Director, be supervised at all times by an Oil and Gas Division Employee.
2. Approval to access files must be in written form and signed by the Division Administrator or Program Manager. Approval can be given electronically.
3. For those listed in Item 9 above must have an employee from the Oil and Gas Division log into a computer and retrieve the files they want to look at from the appropriate electronic locations. These people are not to have access to any other Department electronic files outside of oil and gas. This policy covers only oil and gas related files.
4. Each person listed in Item 9 must read and sign the confidentiality policy before reviewing files.

### **Note for other State and Federal Agencies:**

- The Department will share these files with other state or federal agencies when necessary for those agencies to carry out their statutory duties.
- The Department will attempt to have MOUs in place with those agencies before sharing files.
- In the event that the Department is statutorily directed to share information with another state or local agency or governmental subdivision, the Department will supply the information along with an explanation of claimed exemptions.
- When the Department shares confidential information, it shall notify the person receiving the information that the information may be exempt from disclosure and notify that person of any trade secrets claim.
- The Department will maintain a list of the agencies it shares records with and what records are shared.
- The Department will place a watermark or stamp on each copy that is shared to indicate who that copy has been shared with.

## **10. POLICY FOR PUBLIC ACCESS**

If someone from the public would like to see records that have information claimed as exempt from disclosure, they will have to submit a Public Records Request. Public Information will also be available on the Data Miner site as it is implemented.

Any public records request that include information claimed as confidential will be reviewed by the Attorney General's office.

## **11. FILE REVIEW PROCEDURES**

### **A. Location for Review**

#### **1. Oil and Gas Division Employees**

Oil and Gas Division Employees can review files anywhere within the Department Office.

#### **2. Non-Oil and Gas Division Employees**

Non-Oil and Gas Division Employees can review files anywhere in the Department Office as deemed appropriate by the Division Administrator or Program Manager.

### **B. File Copies**

1. All files and working documents that include confidential information shall remain in the Department Office. Persons viewing the confidential information can make copies, but all work products created by those persons that contain confidential information shall also be retained by the Division Administrator or Program Manager and remain in the Department Office. No one will be permitted to remove any data from Department offices by any means without prior written consent of the Division Administrator or Program Manager. No one will be permitted to capture any data by photographic means, copier, transcription or any other means without prior written consent of the Division Administrator or Program Manager.

2. Oil and Gas Division employees can make copies or scan documents as necessary for emailing or mailing documents as per the job duties, file maintenance and storage.

## **12. FILE STORAGE AND MAINTENANCE**

A. Oil and Gas files must not be out of the Records Room any longer than needed for immediate use.

1. Files must be refiled in the Records Room and logged back into Master Track (if bar coded) when not in use by an Oil and Gas Division employee.
2. Removing these files from the building requires prior approval from the Division Administrator or Program Manager.
3. Well files for wells that are pending or under construction as well as current hearing files are locked in the cabinet in the Oil and Gas Administrative Assistant's office with approval from the Division Administrator or Program Manager.

B. File Maintenance will be done by the Oil and Gas Division Staff. File Maintenance is not tracked or logged.

C. After a person is done using a copy that contains confidential information, that copy will be shredded.

D. At the discretion of the Division Administrator or Program Manager, certain working copies may be kept within the oil and gas file folder and marked as such for future use.

### **13. TRAINING**

A. The Program Manager will train all new oil and gas division employees in the proper filing, tracking, and handling of oil and gas files that may or may not contain confidential information.

B. Oil and Gas Division staff will also periodically train existing employees and Commissioners in the proper filing, tracking, and handling of records with confidential information.

C. Training will include the procedures in this policy and the oil and gas trade secrets policy, as well as a review of the Idaho Public Records Act.

D. Training will be as frequent and extensive as the Division Administrator decides is necessary.

### **14. RETENTION OF RECORD**

Retention of Oil and Gas files will be retained as per the Department's Record Retention Policy and applicable rules and statutes.

DRAFT

IDAHO OIL & GAS  
CONSERVATION COMMISSION

**REVISIONS AND REVOCATION:**

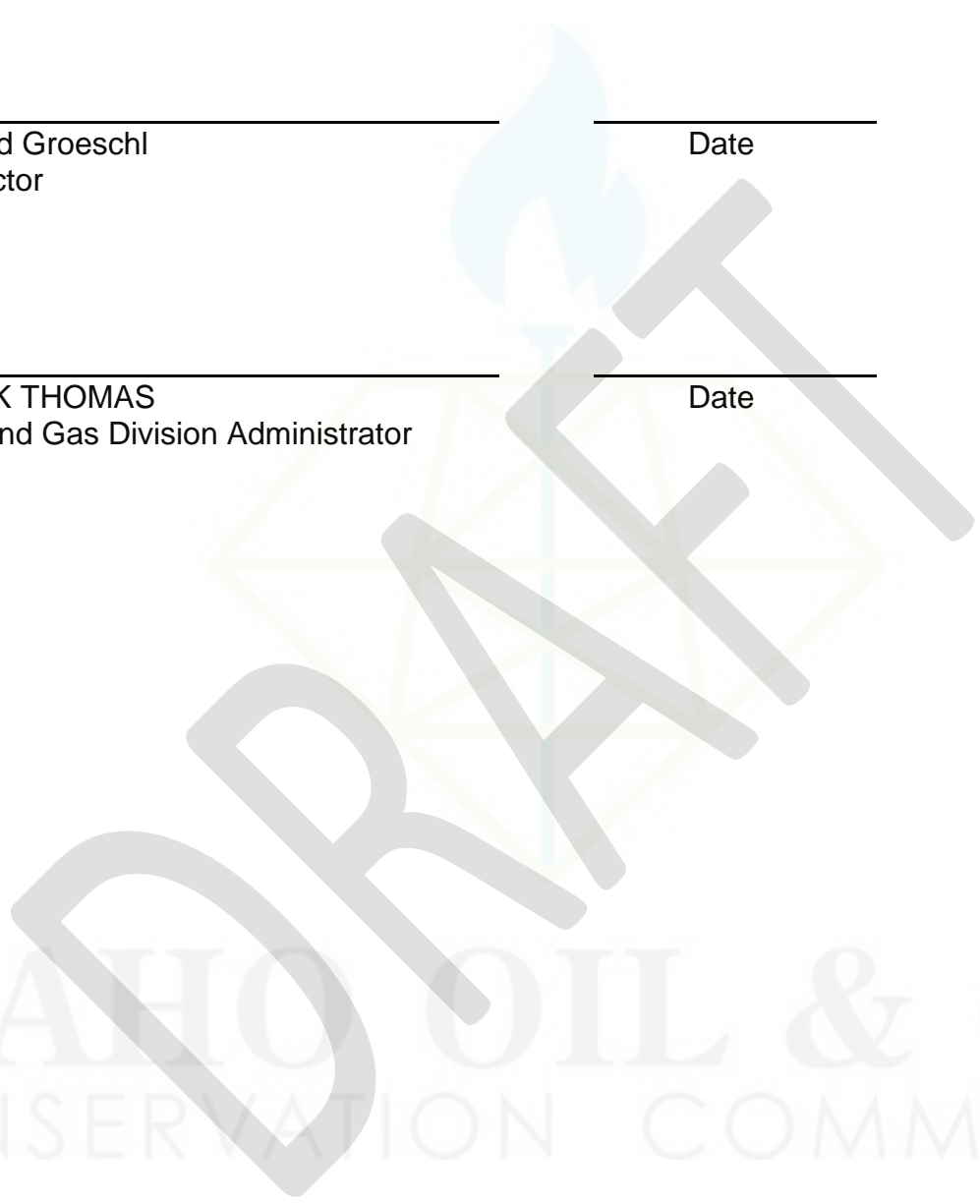
This is a new Department Policy

\_\_\_\_\_  
David Groeschl  
Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
MICK THOMAS  
Oil and Gas Division Administrator

\_\_\_\_\_  
Date



IDAHO OIL & GAS  
CONSERVATION COMMISSION

**Confidentiality Signature form**

I have read Idaho Department of Lands policy on Data Access regarding the Oil and Gas files presented above.

I agree to abide by the requirements of the policy and will inform the Oil and Gas Division Administrator or Oil and Gas Program Manager immediately if I believe any violation (unintentional or otherwise) of the policy has occurred.

I understand that violation of this policy may lead to disciplinary action, up to and including termination of my service or contract with Idaho Department of Lands.

Non-Department staff will be held to the Idaho Tort Claims Act.

By signing this agreement, I also agree not to take copies or pictures of any documents seen without permission from the Oil and Gas Division Administrator or Oil and Gas Program Manager.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

IDAHO OIL AND GAS CONSERVATION COMMISSION  
March 14, 2018  
Information Agenda

SUBJECT

Unit Spacing

BACKGROUND

Idaho Code § 47-317 provides the Idaho Department of Lands (Department) the ability to establish drilling units on a statewide basis, or for defined areas within the state. The establishment of these spacing units shall comply with section 47-318(2), Idaho Code:

*(2) An order establishing spacing units shall specify the size, shape and location of the units, which shall be such as will, in the opinion of the department, result in the efficient and economical development of the pool as a whole. Any unit established by the department shall be geographic. The geographic boundaries of the unit shall be described in accordance with the public land survey system. Except where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require, or as provided in paragraph (b) of this subsection, the size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well; provided:*

*(a) If, at the time of a hearing to establish spacing units, there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one (1) well, the department shall make an order establishing temporary spacing units for the orderly development of the pool, pending the obtaining of the information required to determine what the permanent spacing should be.*

*(b) Where the federal agency administering federal minerals that would otherwise be included in a spacing unit has not leased or has failed to offer such federal minerals for lease auction for at least six (6) months, such federal minerals may be excluded from the unit upon application or upon the department's own determination.*

In sum, Idaho Code § 47-318 requires the Department to establish spacing units that are not smaller than the maximum area that can be efficiently and economically drained by one well. Exceptions can be made where circumstances affecting the orderly development of a pool reasonably require the creation of different spacing units. Those exceptions can be geologic or otherwise. Idaho Code § 47-318 further states that these units be described in accordance with the public land survey system (i.e. Section, Township, Range).

On April 16, 2013, the Oil and Gas Conservation Commission (Commission) approved the recommended order to set spacing for the Hamilton and Willow Fields at six hundred forty (640) acres for gas wells. (Attachment 1)

However, Idaho Code § 47-317(4) provides an operator the opportunity to request a change in the size, shape or location of a drilling unit under this section, as provided in Idaho Code § 47-318(6). Request may be made for drilling units that are:

- (a) Larger or smaller than forty (40) acres for oil;
- (b) Larger or smaller than one hundred sixty (160) acres for gas; or
- (c) Not located within the boundaries of a governmental section, quarter section or quarter-quarter section.

Idaho Code § 47-317(5) allows the authorization of changes to drilling units upon application, notice and an opportunity for hearing as provided in section 47-328, Idaho Code.

Currently in Idaho, drilling units are proposed by the operator through an application process. This is the standard process used in other oil and gas producing states, since the operator usually has the largest amount of data regarding the proposed unit(s). Once submitted, the application and supporting material are reviewed by the Department for accuracy. The application process follows the procedures outlined in Idaho Code § 47-328(3). The administrator makes a decision on the spacing application. That decision may be appealed to the Commission following Idaho Code § 47-328(4). The Commission also has the ability to hold a spacing hearing on its own motion under Idaho Code § 47-328(1).

#### DISCUSSION

The authority to establish spacing units exist in Idaho Codes § 47-317 and § 47-318. This agenda item provides the Commission the opportunity to generally discuss spacing further.

#### ATTACHMENTS

1. April 24, 2013 - Final Order, In the Matter of the Petition by AM Idaho LLC, requesting Amendment to the Spacing Order for the Hamilton and Willow Fields
2. 2017 SOGRE – Peer Assessment Report
3. Idaho Code § 47-317
4. Idaho Code § 47-318
5. Idaho Code § 47-328
6. IDAPA 20.07.02.120
7. Discussion Maps
8. Hypothetical Seismic Structure Map
9. Summary of Equations

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
STATE OF IDAHO

IN THE MATTER OF THE PETITION BY AM )  
IDAHO, LLC, REQUESTING AMENDMENT )  
TO THE SPACING ORDER FOR THE ) **FINAL ORDER**  
HAMILTON AND WILLOW FIELDS. )  
 )  
 )  
\_\_\_\_\_ )

On April 16, 2013, the Oil and Gas Conservation Commission (“Commission”) considered the Recommended Order issued by Hearing Officer Richard Vine on March 28, 2013 in this matter. The Commission, by majority vote, approved the Recommended Order.

IT IS HEREBY ORDERED that the Hearing Officer’s Recommended Order is adopted in full as the final decision and order of the Commission pursuant to Idaho Code § 67-5246 and IDAPA 04.11.01.740. The Recommended Order is attached and incorporated herein by reference.

This is a final order of the Commission. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Commission will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5246(4).

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 attached.



An appeal must be filed within twenty-eight (28) days (1) of the service date of this final order, (2) of an order denying petition for reconsideration, or (3) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *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 24<sup>th</sup> day of April, 2013.



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

IDAHO OIL & GAS  
CONSERVATION COMMISSION

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
STATE OF IDAHO

IN THE MATTER OF THE PETITION BY AM )  
IDAHO, LLC, REQUESTING AMENDMENT )  
TO THE SPACING ORDER FOR THE )  
HAMILTON AND WILLOW FIELDS. )

**RECOMMENDED ORDER**

**I. INTRODUCTION AND BACKGROUND**

This Recommended Order was prepared following a contested case hearing conducted by the Hearing Officer Richard Vine. The Recommended Order is submitted to the Oil and Gas Conservation Commission (“Commission”) for a final decision.

Jurisdiction in this matter rests with the Commission pursuant to Idaho Code § 47-317. The State Board of Land Commissioners (“Land Board”) is designated as the Commission under Idaho Code § 47-317(1). The Idaho Department of Lands (“IDL”) is the administrative agency of the Land Board under Idaho Code § 58-119. This proceeding is governed by the Oil and Gas Conservation Act, Idaho Code § 47-306 *et seq.*; IDAPA 20.07.02, Rules Governing Oil and Gas Conservation in the State of Idaho; the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*; and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General.

This case was initiated by a letter dated September 6, 2012, from Michael Christian on behalf of AM Idaho, LLC, (“AM Idaho”) to the Commission. The letter is a petition under IDAPA 04.11.01.230.<sup>1</sup> AM Idaho requests an amendment to the Spacing Order for the Hamilton and Willow Fields.

On January 14, 2013, Richard Vine was appointed as the hearing officer and directed to issue a recommended order to the Commission upon the conclusion of the hearing. On February 13, 2013, a prehearing conference was held to determine a hearing date and establish hearing procedures. On February 20, 2013, the hearing officer held a status conference to discuss review procedures applicable to recommended orders. On March 1, 2013, in response to the issues raised during the status conference, AM Idaho waived its rights under IDAPA 04.11.01.720.02.c to file written briefs taking exception to the recommended order within 21 days of the issuance of the recommended order to allow the recommended order to be considered by the Commission at its April 16, 2013 meeting.

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<sup>1</sup> In documents filed by AM Idaho in this case, the September 6, 2012 letter is referenced as an application, rather than a petition. For consistency, the September 6, 2012 letter is referenced as an application in the remainder of the Recommended Order.

The Notice of Hearing was issued on February 21, 2013. The Notice of Hearing was published in newspapers as follows: Idaho Statesman on March 2 and 9, 2013; Idaho Press Tribune on March 3 and 10, 2013, and Independent Enterprise on March 6 and 13, 2013.

On March 8, 2013, AM Idaho submitted a letter in support of its request to amend the Spacing Order. AM Idaho provided a summary of anticipated testimony, geological exhibits G-1 through G-6, and engineering exhibits E-1 through E-6. The hearing was held on March 14, 2013 at the New Plymouth Senior Center located at 126 N. Plymouth Ave., New Plymouth, Idaho. After the hearing, on March 21, 2013, AM Idaho submitted closing comments in support of its application to amend the Spacing Order.

## **II. FINDINGS OF FACT**

1. AM Idaho requests an amendment to the Spacing Order for the Hamilton and Willow fields, approved by the Commission on April 19, 2011, which modified the default spacing of one well per 640 acres to one well per 160 acres.
2. In its application, AM Idaho requests the Commission change the spacing in the Hamilton and Willow fields from one well per 160 acres to one well per 640 acres.
3. The area described by the application includes the following land: Sections 1-4, 8-17, 21-28, 31-26 Township 8 North, Range 4 West, Boise Meridian; Sections 1-24, Township 7 North, Range 4 West, Boise Meridian (“Application Lands”).
4. The lands subject to this application are shown on Exhibit G-1 and are the lands indicated by the pink outline.
5. Mr. John Peiserich, appearing on behalf of AM Idaho, provided opening remarks and summarized AM Idaho’s requested relief. *See* Exhibit D-1. Mr. Peiserich stated that the applicant would provide testimony from three professionals: (1) Richard Brown, regarding land issues; (2) Kim Parsons, regarding geology; and (3) Deborah Savimaki, regarding reservoir engineering. Mr. Peiserich reviewed the history of exploration in the Application Lands area, and described the new operator in the area, AM Idaho. AM Idaho is a wholly owned subsidiary of Alta Mesa Holdings, a Houston, Texas, based operator with substantial U.S. onshore experience. Mr. Peiserich stated that AM Idaho was bringing its expertise to bear to maximize resource recovery, protect correlative rights, and prevent waste. Likewise, he stated, the goal of the applicant’s spacing application and its presentation at the hearing was to protect correlative rights, prevent waste, and maximize resource recovery. Mr. Peiserich stated that AM Idaho was requesting three things in its application (summarized on Exhibits D-2 through D-4):
  - a. Return to the standard statewide spacing of 640 acres per unit. The Willow and Hamilton fields included in the Application Lands were originally spaced at 640 acres, which is the standard spacing statewide for natural gas wells pursuant to IDAPA 20.7.02.330.02. Mr. Peiserich stated that the applicant’s testimony would

show that reservoir data demonstrates effective drainage of 640 acres for the primary target sand at 4100 ft.

- b. An administrative mechanism to deviate from the standard spacing to accommodate high variability between the identified sands showing extreme differences in reservoir deliverability. Mr. Peiserich stated that the applicant's testimony would show that the 3750 Foot Sand shows substantially reduced permeability relative to the 4100 Foot Sand; that current information is limited, but indicates that substantial variability exists that requires an administrative mechanism for spacing to protect correlative rights and prevent waste; and that field rules should allow for variability between units as is found in other states.
  - c. Authority to omit any lands from a drilling unit that are owned by a governmental entity and for which it can be demonstrated that such governmental entity has failed or refused to make such lands available for leasing within a reasonable time in light of the proposed development. Mr. Peiserich stated that the applicant's testimony would show that the U.S. Bureau of Land Management ("BLM") administered minerals are currently unavailable for lease and are unlikely to be made available for lease in any reasonable time to allow for development; that the applicant's request was limited to interests that cannot be integrated, i.e. federal ownership; that the applicant or its predecessors have nominated all relevant BLM lands within the Application Lands; that such nominations have been in place since 2006; that numerous meetings with BLM have been conducted and there is no foreseeable time at which BLM will commence the leasing process, thus consent to lease has not even been requested from the surface administrator.
6. Mr. Richard Brown testified on behalf of AM Idaho. Mr. Brown has a B.S. in Petroleum Land Management from the University of Texas at Austin. He worked in petroleum land management at Atlantic Richfield for seven years, and has worked with Weiser-Brown Oil Company of Magnolia, Arkansas, of which he is now a principal, for twenty-five years. Snake River Oil and Gas, LLC is a wholly-owned Idaho subsidiary of Weiser-Brown Oil Company. Mr. Brown was qualified as an expert in the field of petroleum land management for the purposes of the Application. Mr. Brown testified as follows:
- a. AM Idaho has the majority ownership/leasehold interest in the Willow and Hamilton fields. Snake River Oil and Gas is a minority participant with AM Idaho.
  - b. The State of Idaho owns lands within the Willow and Hamilton fields. The State has offered leases on the majority of those lands, as well as lands outside the fields, totaling in excess of 28,000 acres. AM Idaho has acquired those leases. In April 2013, the final lease of State lands in the Application Lands area will occur consisting of approximately 50 acres.
  - c. All the federal land in the Willow and Hamilton Fields has been nominated for lease. It is Mr. Brown's understanding that BLM has not offered and has no

intention of offering these lands for lease at any reasonable time in the future. Mr. Brown has held multiple meetings with BLM representatives in attempts to address these issues. However, BLM has not even begun the lease process by requesting consent from the federal owner. BLM has taken the position that it will not offer lands for lease until it completes a new Resource Management Plan (“RMP”) for the area. There is no clear timeline for the completion of the new RMP. Without the BLM leases, it is impossible to develop some sections because federal lands cannot be integrated. In Mr. Brown’s opinion, this results in stranding of resources. In his opinion, correlative rights are negatively impacted because resources cannot be developed, i.e. other landowners in the section cannot have their minerals produced, economic waste is caused because leases that would otherwise be productive are not. As a land professional, it is Mr. Brown’s opinion that, without the requested ability to exclude federal lands from a unit, orderly development cannot proceed, and waste will occur.

- d. Exhibit D-5 is a summary of Mr. Brown’s testimony.
7. Ms. Kim Parsons testified on behalf of the applicant as an expert in geology. Ms. Parsons has over 25 years of experience in the oil and gas industry, both domestically and internationally. She has a B.S. in Geology from Texas A&M University, a M.S. in Geophysics from Stanford University, and an M.B.A. from Colorado State University. Her work experience includes Exxon, Gulf Indonesia, Manager of Geosciences with Venoco, and most recently Exploration Manager of Bridge Resources with responsibility for the Payette Basin project. Ms. Parsons is experienced in all Rocky Mountain provinces, California, Gulf Coast, West Africa, Italy, Romania, North Sea, Indonesia, and has been involved with the Payette Basin project since 2008. Ms. Parsons was qualified as an expert in the field of geology for the purposes of the Application. Ms. Parsons testified as follows:
- a. She has knowledge of the geological characteristics of the formations underlying the Application Lands.
  - b. In support of the Application, she prepared or supervised the preparation of Exhibits G-1 through G-6 submitted by AM Idaho, and reviewed the Application.
  - c. Exhibit G-1 depicts the Application Lands area, including the Willow and Hamilton fields.
  - d. The Willow-Hamilton area is structurally located in a broad low area between the basin edge to the northeast and the central basin high to the southwest. Exhibit G-2 generally depicts the subsurface geological structures in the basin.
  - e. The upper fluvial sand package is widespread across the area and ranges from 500 to 800 ft. thick, except where replaced/interrupted by volcanics. Available subsurface data indicates the fluvial sand appears a consistent reservoir quality. Exhibits G-3 and G-4 are north-south and east-west cross sections across wells as depicted by the red lines on Exhibit G-2. Exhibits G-3 and G-4 reflect the

thickness and continuity of the fluvial sand. Exhibit G-5 reflects the presence of the fluvial sand in tested zone at the 4100 ft. level in the ML Investments #1-10 well.

- f. The fluvial sand is overlain by 1700 ft. to 3500 ft. of lacustrine shale, providing a regional topseal.
  - g. These characteristics are applicable to both the Willow and Hamilton fields.
  - h. Ms. Parsons gained knowledge of the characteristics of the 4100 Foot Sand and the 3750 Foot Sand during her tenure as Exploration Manager of Bridge.
  - i. Exhibit G-6 is a summary of Ms. Parson's testimony. In Ms. Parsons' opinion, based on her knowledge of the consistency of the fluvial sand across the basin and her knowledge of the characteristics of the 4100 Foot Sand and the 3750 Foot Sand, the Application lands could not be efficiently developed and drained, waste prevented, and correlative rights protected, without spacing of the Application lands returned to 640 acres, with adjustments to spacing on a case-by-case basis to account for variability in the geology and reservoir characteristics, particularly in the 3750 Foot Sand, to be determined on an administrative basis.
8. Ms. Deborah Savimaki, Senior Reservoir Engineer with MHA Petroleum Consultants of Denver, Colorado testified on behalf of AM Idaho. Ms. Savimaki holds a Masters of Petroleum Engineering and a Bachelor of Chemical Engineering from Curtin University of Technology, Perth, Australia. Prior to her employment by MHA Petroleum Consultants, she worked as a reservoir engineer for Woodside Energy of Perth, Australia. See Exhibit E-1. She was qualified as an expert in the field of reservoir engineering for the purposes of the Application. Ms. Savimaki testified as follows:
- a. She has knowledge of the reservoir engineering characteristics of the 4100 Foot Sand formations underlying the Application Lands.
  - b. In support of the Application, she prepared or supervised the preparation of Exhibits E-2 through E-6 submitted by the applicant, and reviewed the Application.
  - c. Exhibit E-2 is a map showing the location of the Application Lands and well locations. From a reservoir engineering perspective, there are no known differences in the 4100 Foot Sand across the Application Lands.
  - d. The 4100 Foot Sand penetrated by the ML 1-10 well, shown in Exhibit E-3, has a net-to-gross ratio of 80% and a net pay of 9 feet. The porosity of this formation is 22% and is filled with a wet gas yielding 18 barrels of condensate per million cubic feet of gas. An extended pressure buildup test conducted in January 2013 on this well yielded an effective permeability to gas of 304 millidarcy ("md"). Rock and fluid properties were used in a single well simulation model to investigate drainage area.

- e. To account for any reduction in permeability away from the wellbore, the simulation assumed permeability to gas of 200 md. Simulated gas rates and recoveries are plotted as a function of reservoir pressure in Exhibit E-4. The simulation indicates the well will load up at 325 thousand cubic feet per day (“mcf/d”), at a reservoir pressure of 125 pounds per square inch gauge (“psig”). Gas recovery at this abandonment pressure is over 90% of the original gas in place.
  - f. Simulations based upon measured rock and fluid properties demonstrate that 640 acre well spacing will efficiently drain the 4100 Foot Sand in the Application Lands.
  - g. The proposed 640 acre well spacing in the 4100 Foot Sand will promote efficient drainage, protect correlative rights, and prevent waste.
  - h. She has knowledge of the reservoir engineering characteristics of the 3750 Foot Sand formations underlying the Application Lands.
  - i. The 3750 Foot Sand penetrated by the DJS 1-15 well. The porosity of this formation is 33%. An extended pressure buildup test conducted in January 2013 indicated an effective permeability to gas of 0.5 md. A 640 acre simulation model of this low permeability reservoir was used to assess the recovery. Exhibit E-5 shows the simulated gas rates and recovery plotted as a function of reservoir pressure. The model indicates liquid load up will occur at 120 mcf/d, at a reservoir pressure over 1200 psig, yielding a 35% recovery.
  - j. Exhibit E-6 is a summary of Ms. Savimaki’s testimony. In Ms. Savimaki’s opinion, 640 acre spacing is inappropriate for the 3750 Foot Sand and, pending further drilling and data development, smaller well spacing will allow for efficient development of resources, prevent waste, and protection of correlative rights for this sand. However, there is presently insufficient data to justify uniformly smaller spacing. While the 4100 Foot Sand provides adequate drainage at 640 acre spacing, structural complexities in that sand may require deviation from standard spacing in some instances. Smaller well spacing requirements could be handled administratively. In her opinion, the Application lands could not be efficiently developed and drained, waste prevented, and correlative rights protected, without spacing of the Application lands returned to 640 acres, with adjustments to spacing on a case-by-case basis to account for variability in the geology and reservoir characteristics, particularly in the 3750 Foot Sand, to be decided on an administrative basis.
9. Following the close of testimony by AM Idaho’s witnesses, Mr. Peiserich summarized the testimony and the AM Idaho’s requests. *See* Exhibit D-6.

10. No testimony was offered other than that provided by the AM Idaho's witnesses.

### **III. CONCLUSIONS OF LAW**

1. Pursuant to Idaho Code § 47-319(2), it is the duty of the Commission “to regulate the exploration for and production of oil and gas, prevent waste of oil and gas and to protect correlative rights, and otherwise to administer and enforce” the Oil and Gas Conservation Act.
2. The Commission has the authority to regulate the spacing or locating of wells. Idaho Code § 47-319(5)(c). The Commission is authorized to establish spacing units for each pool. Idaho Code § 47-321(a).
3. Spacing orders “shall specify the size and shape of the units, which shall be such as will, in the opinion of the commission, result in the efficient and economical development of the pool as a whole.” Idaho Code § 47-231(b).
4. “The size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well; provided, that if, at the time of a hearing to establish spacing units there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one (1) well, the commission may make an order establishing temporary spacing units for the orderly development of the pool pending obtaining the information required to determine what the ultimate spacing should be.” Idaho Code § 47-321(b).
5. “Except where circumstances reasonably require, spacing units shall be of approximately uniform size and shape for the entire pool.” Idaho Code § 47-321(c). “The commission may establish spacing units of different sizes or shapes for different parts of a pool or may grant exceptions to the size or shape of any spacing unit or units or may change the sizes or shapes of one or more existing spacing units.” *Id.*
6. “An order establishing spacing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the commission from time to time to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool.” Idaho Code § 47-321(e).
7. Spacing orders may be modified by the commission to change the size or shape of one or more spacing units. Idaho Code § 47-321(f).
8. “In the absence of an order by the Commission setting spacing units for a pool,” every gas well “must be located on a drilling unit consisting of approximately six hundred forty (640) contiguous surface acres, which shall be one governmental section or lot(s) equivalent thereto, upon which there is not located, and of which no part is attributed to, any other well completed in or drilling to the same pool.” IDAPA 20.07.02.330 and .02.
9. The Commission may authorize a well to be drilled at a location other than that prescribed in a spacing order “[i]f the commission finds that a well drilled at the



prescribed location would not be likely to produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, or for other good cause shown.” Idaho Code § 47-321(d).

10. Exceptions to spacing orders may be authorized under the procedures in IDAPA 20.07.02.330.04. “Upon proper application therefore, the Department may approve, as an administrative matter, an exception to Subsections 330.01 and 330.02 or any order of the Commission establishing well spacing for a pool.” *Id.*
11. The Commission has authority to amend the existing Spacing Order for the Hamilton and Willow fields pursuant to Idaho Code § 47-321(f).
12. AM Idaho presented geologic and engineering data that showed that a return to the default 640 acre spacing for gas wells, with the ability to seek administrative exceptions to the default 640 acre spacing on a case-by-case basis, would result in the area being efficiently drained, would prevent waste, and would protect correlative rights, in a manner consistent with the Commission’s duty in Idaho Code § 47-319(2).
13. Given the nature of the known geology and reservoir characteristics of the Application Lands, return to 640 acre per unit spacing is appropriate. Information now available for the 4100 Foot Sand indicates it will be most efficiently drained at 640 acre spacing. *See* Idaho Code § 47-312(b). Spacing of one well per 640 acres is the default spacing size for gas wells under IDAPA 20.07.02.330.02.
14. Information now available for the 3750 Foot Sand indicates that it is more variable in nature, and will not be drained efficiently through uniform spacing at 640 acres. However, the sand is still undeveloped and smaller uniform spacing also is not appropriate. Thus, it is most appropriate to return the field to default 640 acre spacing with provision in field rules in the Spacing Order to obtain administrative approval for downspacing on a case-by-case basis in order to promote orderly and efficient development and drainage, prevent waste, and protect correlative rights. *See* Idaho Code § 47-321(d). Such downspacing may be requested in the future according to the exception procedure in IDAPA 20.07.02.330.04.
15. AM Idaho requests authority for the Commission to consider future applications to omit land owned by government entities that have not been offered for lease within a reasonable time. AM Idaho did not request omitting specific land in its application. Rather, AM Idaho offered evidence that within the Application Lands there are areas with mineral rights owned by governmental entities,<sup>2</sup> and the failure of such entities to offer lands for lease within a reasonable time in light of proposed development may negatively impact the orderly and efficient development of the field. BLM has administrative authority over areas within the Application Lands. Some of those areas have been nominated for lease since at least 2006, but due to the BLM’s ongoing work on a new RMP for the area, it has declined to offer the areas for lease. According to the testimony of Mr. Brown, it is unlikely that the areas will be offered for lease in the

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<sup>2</sup> AM Idaho did not present evidence of the location of mineral rights owned by government entities in the Hamilton and Willow fields.

reasonably foreseeable future. The Commission has the authority to modify spacing orders under Idaho Code §§ 47-321(c), (e) and (f). It is appropriate to consider such requests in the future when specific evidence may be presented to the Commission to support the requests.

#### **IV. HEARING OFFICER RECOMMENDATION**

Based upon the information provided to me as the hearing officer, I recommend that the Commission issue a Final Order **approving** AM Idaho's request to amend the Spacing Order, as follows:

1. Field spacing in the Application Lands should be returned to the default 640 acres per well for gas wells.
2. Operators may seek administrative exceptions to the 640 acre ordered spacing from the Director of IDL on a case-by-case basis within the Application Lands under the procedure in IDAPA 20.07.02.330.04, including in such application information establishing that the maximum area that can be efficiently and economically drained by one (1) well is smaller than the ordered spacing for the area covered by the application.
3. Pursuant to Idaho Code § 47-321, the Commission has authority to consider future applications, brought before the Commission, from owner(s) in a drilling unit seeking the authority to omit any lands from such drilling unit that are owned by a governmental entity and for which it can be demonstrated that such governmental entity has failed or refused to make such lands available for leasing within a reasonable time in light of the proposed development.

#### **V. PROCEDURES FOR RECOMMENDED ORDERS**

This is a Recommended Order of the hearing officer. It will not become final without action of the Commission. Any party may file a petition for reconsideration of this Recommended Order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this Recommended Order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See* Idaho Code § 67-5243(3).


Within twenty-one (21) days after (a) the service date of this Recommended Order, (b) the service date of a denial of a petition for reconsideration from this Recommended Order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this Recommended Order, any party may in writing support or take exceptions to any part of this Recommended Order and file briefs in support of the party's position on any issue in the proceeding.<sup>3</sup>

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<sup>3</sup> On March 1, 2013, AM Idaho waived its right to file written briefs taking exceptions to the Recommended Order within 21 days of the issuance of the Recommended Order to allow the Recommended Order to be considered by the Commission at its April 16, 2013 meeting.

Written briefs in support of or taking exceptions to the Recommended Order shall be filed with the Commission (in care of the Idaho Department of Lands). Opposing parties shall have twenty-one (21) days to respond. The Commission may schedule oral argument in the matter before issuing a final order. The Commission will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The Commission may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

DATED this 28<sup>th</sup> day of March, 2013.

  
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RICHARD VINE  
Hearing Officer

IDAHO OIL & GAS  
CONSERVATION COMMISSION

# PEER ASSESSMENT

Report 2017

**Idaho Department  
of Lands**

IDAHO OIL & GAS  
CONSERVATION COMMISSION



State Oil & Gas Regulatory Exchange  
ATTACHMENT 2



States First is a state-led initiative aimed at facilitating multi-state collaboration and innovative regulatory solutions for oil and natural gas producing states.

Governors, regulators, and policy leaders from oil and gas producing states across the country have partnered with the Interstate Oil and Gas Compact Commission and Ground Water Protection Council in this endeavor. This joint initiative allows a unique mix of regulatory experts, state policy and technical staff from across the country to come together and to share the way they do business, review internal operations and opens up opportunities for extrapolating effective practices from one state to another.

Looking forward, the states remain committed to excellence and to providing the regulatory leadership necessary for a sound energy future. As leaders, the states recognize the need to continuously improve and to develop innovative solutions to emerging regulatory challenges. Through States First programs, state regulatory agencies are collaborating and communicating with one another in an ongoing effort to keep current with rapidly changing technology, as well as to share the very best and innovative regulatory procedures from state to state.

The **State Oil and Gas Regulatory Exchange** (SOGRE) is an outreach program created under the States First Initiative. The mission of the SOGRE is to assist states to continually improve state oil and gas regulatory programs by providing member states consultation and program assessment services targeted to their specific needs.

## **Ground Water Protection Council**

The Ground Water Protection Council (GWPC) is a nonprofit 501(c)6 organization whose members consist of state ground water regulatory agencies which come together within the GWPC organization to mutually work toward the protection of the nation's ground water supplies. The purpose of the GWPC is to promote and ensure the use of best management practices and fair but effective laws regarding comprehensive ground water protection.

The mission of GWPC is to promote the protection and conservation of ground water resources for all beneficial uses, recognizing ground water as a critical component of the ecosystem. The organization provides an important forum for stakeholder communication and research in order to improve governments' role in the protection and conservation of ground water.

## **Interstate Oil & Gas Compact Commission**

The Interstate Oil and Gas Compact Commission, comprised of 38 oil and gas producing states, is a multi-state government entity that promotes the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment.

The Commission, acting through member-state governors, assists states to maximize oil and natural gas resources through sound regulatory practices. As the collective voice of member governors on oil and gas issues, the IOGCC advocates for states' rights to govern petroleum resources within their borders.

# State Oil & Gas Regulatory Exchange Peer Assessment Report 2017

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# State Oil & Gas Regulatory Exchange Peer Assessment Report 2017

## Idaho Department of Lands

### **SOGRE Idaho Assessment Team**

#### **Matt Lepore, Director, Colorado Oil and Gas Conservation Commission** *Assessment Team Lead*

Matt Lepore became Director of the Colorado Oil and Gas Conservation Commission in August 2012. An attorney by profession, Mr. Lepore has more than 20 years' experience in environmental and natural resources law and policy.

Immediately prior to joining the Commission, Mr. Lepore was a member of the law firm Beatty & Wozniak, P.C., where his practice focused on oil and gas regulatory matters, enforcement proceedings, and litigation. Prior to joining Beatty & Wozniak, Mr. Lepore was a Colorado Assistant Attorney General and was counsel to the Colorado Oil and Gas Conservation Commission. Mr. Lepore represented the Commission before the state trial and appellate courts, and advised the Commission on regulatory and enforcement matters, and as well as agency rulemaking. Mr. Lepore earned his B.A. degree, summa cum laude, from the University of Colorado, Boulder and his J.D. degree from Stanford University. He has served as the IOGCC Legal and Regulatory Affairs Committee Chair and is currently the IOGCC 2<sup>nd</sup> Vice Chairman.

#### **John Baza, Director, Utah Division of Oil, Gas and Mining, Department of Natural Resources**

With more than 20 years of state service, John Baza has been the Director of the Utah Division of Oil, Gas and Mining, since 2005. He is a petroleum engineer by education and work experience, holding both Master of Science and Bachelor of Science degrees in petroleum engineering from Stanford University.

Mr. Baza's career spans over 33 years working with the energy and mineral extractive industries with several petroleum companies including Phillips Petroleum Co., Amoco Production Co., and Flying J Oil and Gas Inc. Mr. Baza has been involved in petroleum exploration and development in Wyoming, North Dakota and Utah, and he has also worked on geothermal power projects in Utah, Nevada, and California.

Mr. Baza is a registered professional engineer in Utah. He is also a 36 year member of the Society of Petroleum Engineers, having held various officers positions including section chairman, program chairman and scholarship committee chairman. He has also served as IOGCC Vice Chairman and received the E.W. Marland Award for outstanding regulator in 2015.

#### **Cathy Foerster, Chair & Commissioner, Alaska Oil and Gas Conservation Commission**

In 2005, Alaska Governor Frank Murkowski appointed her to serve as the engineering commissioner for the Alaska Oil and Gas Conservation Commission, and in 2012, Alaska Governor Sean Parnell appointed her Chair of the Commission.

Mrs. Foerster earned a mechanical engineering degree with highest honors from the University of Texas in 1977. Upon graduation she worked for Exxon Company USA. She left Exxon in 1979 to work for ARCO, where she held a variety of engineering, operations, and management positions until ARCO was acquired by BP in 2000. She worked on contract for BP for almost two years before leaving to work as an engineering consultant for various clients, including BP and the State of Alaska.

In 2005, Mrs. Foerster was named an Outstanding Mechanical Engineering Graduate of the University of Texas, and in 2008 she was named a Distinguished Graduate of the University of Texas Cockrell School of Engineering. Also in 2008, she was named to the Athena Society, a national organization of business professionals who are recognized for mentoring young women. She was the 2014 IOGCC Vice Chair and is the current Chair of the Council of State Regulatory Officials.

### **Mike Nickolaus, Special Projects Director, Ground Water Protection Council**

Mike Nickolaus received his Bachelor's degree in Geology from Indiana University and has been a Licensed Professional Geologist since 1986. He is also a member of the Society of Petroleum Engineers.

Mr. Nickolaus has worked as the Special Projects Director for the GWPC since May, 2005. In this capacity he is responsible for development and management of projects related to water/ energy issues and underground injection control.

Prior to joining GWPC, Mike worked for the Indiana Division of Oil and Gas for nearly 20 years in program enforcement, permitting, and underground injection control. In his final two years with the division, Mr. Nickolaus served as the state Director of Oil and Gas.

### **Dr. Berry H. (Nick) Tew, Jr., State Geologist and Oil and Gas Supervisor, Geological Survey for Alabama/ Alabama Oil and Gas Board, Chairman, Alabama State Water Agencies Working Group (AWAWG)**

Dr. Berry H. (Nick) Tew, Jr. is Alabama's state geologist and oil and gas supervisor. In these capacities, he directs the Geological Survey of Alabama and the staff of the State Oil and Gas Board of Alabama. In February of this year, he was appointed research professor and director of the Center for Sedimentary Basin Studies in the Department of Geological Sciences at the University of Alabama, in addition to his other duties. Nick holds bachelor's, master's, and Ph.D. degrees in geology and has been with GSA and OGB for more than 30 years, serving in his present capacity since 2002.

Dr. Tew has extensive knowledge of Alabama's surface and subsurface geology and the state's rich endowment of geologically related natural resources. He is an expert in Gulf Coastal Plain stratigraphy, petroleum geology and public policy applications of the geosciences, as well as the regulation of oil and natural gas operations. Dr. Tew is chairman of the Alabama Water Agencies Working Group (AWAWG), a group of state agencies directed by Governor Robert Bentley to recommend an action plan and timeline for implementing a statewide water management plan.

He is a member of the National Petroleum Council and the National Academies of Science, Engineering and Medicine Roundtable on Hydrocarbon Resources, in addition to numerous other committee, board and service activities. He is a past president of the American Geosciences Institute and Association of American State Geologists and served as vice-chairman of the Interstate Oil and Gas Compact Commission and chairman of the U.S. Department of the Interior Outer Continental Shelf Policy Committee. Dr. Tew is a fellow in the Geological Society of America. He is the 2013 recipient of the E.W. Marland Award for outstanding state regulator and the 2016 recipient of the AGI Medal in Memory of Ian Campbell for Superlative Service to the Geosciences, the highest award of the American Geosciences Institute.



## INTRODUCTION

The Idaho Department of Lands (“Department”) is the state agency with primary responsibility for regulating oil and gas exploration and production in the state. Exploration and production of the state’s oil and natural gas resources has been limited – Idaho currently has eight producing wells – but it is growing. The recent increase in exploration and production activity has brought increased attention to the Department’s regulatory regime from operators, the State Legislature, and the public. The Department requested the State Oil and Gas Regulatory Exchange (“SOGRE”) conduct a comprehensive peer assessment of the Department’s statutory authorities and implementing regulations. Through this peer assessment by the SOGRE Assessment Team (“SOGRE Team”), the Department sought to obtain the perspective of other state oil and gas regulators on Idaho’s regulatory regime, including its statutory authority, implementing regulations, administrative procedures, staffing, and funding.

### Background Materials Evaluated

Each member of the SOGRE Team read the following materials related to the Department’s regulatory regime:

1. The Idaho Oil and Gas Conservation Act, Title 47, Chapter 3 Idaho Code;
2. Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, Idaho Administrative Procedures Act, 20.07.02;
3. Draft rule changes for 20.07.02 dated from July, 2016;
4. Draft legislation regarding hearing processes; and
5. The Department’s responses to SOGRE’s “Idaho Consultation – Statutory Analysis Questionnaire.”

In July 2016, SOGRE Team members Matt Lepore, Mike Nickolaus, and Carol Booth, IOGCC Communications Manager and SOGRE Assessment Liaison, spent a full day with Department personnel and the Department’s Deputy Attorney General reviewing the Department’s responses to the SOGRE Statutory Analysis Questionnaire and discussing details of the Department’s regulatory regime. Department personnel present were: Diane French, Assistant Director, Lands and Waterways; Eric Wilson, Resource Protection and Assistance Bureau Chief; James Thum, Oil and Gas Program Manager; Kourtney Romine, Resource Protection and Assistance Administrative Assistant; Margaret Chipman, Commissioner, Idaho Oil and Gas Conservation Commission; and Kristina Fugate, Idaho Deputy Attorney General.

IDAHO OIL & GAS  
CONSERVATION COMMISSION

## **SOGRE TEAM FINDINGS**

### **A. Statutory Authority and Implementing Regulations**

1. The Idaho Oil and Gas Conservation Act (the “Act”), adopted in 1965, provides the Department with essential jurisdiction and authority necessary to effectively regulate oil and gas exploration and production in the State.
  - a. The Idaho Act is based on the Interstate Oil and Gas Compact Commission Model Act. Most other oil and gas producing states’ conservation acts are also based on the IOGCC Model Act.
  - b. The Act creates the Idaho Oil and Gas Conservation Commission (“Commission”) and provides the Commission with broad general authority to regulate development of Idaho’s oil and gas natural resources. Idaho Code 47 317(8), (9); -319; -327.
  - c. The Act further provides the Commission authority to regulate many specific aspects of oil and gas exploration and production operations in the state. A listing of specific statutory authorities granted to the Commission is included as Appendix 1.
2. The Department has adopted comprehensive implementing regulations. The SOGRE Team evaluated these regulations, including several pending amendments and updates to them, and did not identify material substantive gaps in the implementing regulations. The SOGRE Team did identify a number of regulatory topics for additional consideration by the Department or Commission; those areas are specified in section C of this report.

The Department’s regulations govern the following substantive topics. A more complete index of the Department’s implementing regulations is included in Appendix 2.

Subchapter A – General Provisions. IDAPA 20.07.02.000-099.

Subchapter B – Exploration and Development. IDAPA 20.07.02. 100-199.

Subchapter C – Drilling, Well Treatment, and Pit Permits. IDAPA 20.07.02.200 299.

Subchapter D – Well Sites and Drilling. IDAPA 20.07.02.300-399.

Subchapter E – Production. IDAPA 20.07.02.400-499.

Subchapter F – Well Activity and Reclamation. IDAPA 20.07.02.500-510.

### **B. SOGRE Team Response to Specific Issues Raised by the Department**

In its response to SOGRE’s Statutory Analysis Questionnaire, the Department identified a number of specific regulatory or administrative issues about which it requested guidance from the SOGRE Team. Preliminary discussions about, and further clarification of these issues occurred during the Team’s on-site visit. Many of the issues raised by the Department concern legislative or policy issues that each state oil and gas regulatory agency must resolve through that state’s political processes. Agency funding, for example, is quintessentially an issue each state’s oil and gas regulatory agency must resolve through the state legislative process. The SOGRE Team has not made specific recommendations about political or policy issues, but in some cases has offered broad guidance on these issues based on the review team’s general knowledge of how different state oil and gas regulators address these issues. The SOGRE Team has offered more substantive responses on more purely technical or regulatory issues.

1. Department Issue: By statute, the five member Commission is comprised of citizens appointed by the Governor and confirmed by the state Senate. The Act requires the Commission be comprised of individuals with diverse areas of expertise, including one member who is “knowledgeable in oil and gas matters” and one who is “knowledgeable in geological matters.” New Commissioners who do not have specific oil and gas experience may face a steep learning curve on more technical issues.

SOGRE Response: Many oil and gas producing states follow a similar “citizen commission” model, in which Commissioners are appointed by the Governor and in some instances also approved by the state House or Senate. Statutes in other oil and gas producing states are more prescriptive regarding the required level of experience, knowledge or training for the members with oil and gas or geological backgrounds. For example, some state requirements include: “substantial experience and a college degree in petroleum geology or petroleum engineering;” or “a petroleum geologist [engineer] with at least ten years’ experience.” The Department may want to consider whether more specific qualification requirements of this type would be beneficial.

Commission staff may also wish to consider developing orientation materials for new Commissioners. Additional educational resources on specific topics are available from a number of third party resources. Some recommended resources include: Interstate Oil and Gas Compact Commission ([iogcc.ok.gov](http://iogcc.ok.gov)); Oklahoma Energy Resources Board ([www.oerb.com](http://www.oerb.com)); Rocky Mountain Mineral Law Foundation ([www.rmmlf.org](http://www.rmmlf.org)); and Ohio Oil and Gas Energy Education Program ([www.oogeep.org](http://www.oogeep.org)).

2. Department Issue: At present, the Department’s oil and gas program has only one full-time employee. Department staff with limited oil and gas experience are assisting the oil and gas program on as-needed / as-available basis. The Department has contracted with professional consultants for specific needs. The staff does not currently have experienced oil and gas inspectors to meet demand if development activity increases as expected.

SOGRE Response: Right-sizing staff is a familiar challenge for state and oil and gas regulatory agencies. Evaluating staffing needs through a lens of specific articulated and objective performance metrics may help quantify staffing needs. Developing such metrics may also assist the Legislature to evaluate agency budget requests. Examples of such metrics include the average days required to process drilling permits, average time required to inspect all active wells in the state, and percentage of required tests (such as Blow Out Prevention (BOP) and Mechanical Integrity Tests (MITs)) the staff are able to witness each year. Many other metrics could also be used.

Using contractors or temporary employees, as the Department has done, is a common means by which regulatory agencies meet demand peaks while retaining the flexibility to downsize when work loads diminish. The SOGRE Team recommends the Department focus early hiring efforts on individuals with the experience to wear many hats, such as an engineer with significant oil and gas exploration and production operations experience.

3. Department Issue: The Department is considering modifications to its well spacing and well setback rules, which are currently drawing scrutiny from the industry and community members.

SOGRE Response: The Commission’s proposed revised spacing and well setback rules provide for a standard spacing unit of 40 acres for oil and 640 acres for gas. Subsection 120.01.a., b. These default spacing unit sizes can be varied by order of the Commission after hearing. Subsection 120.07. In addition, the Commission initially establishes temporary spacing units, and establishes permanent spacing units only after production and reservoir information can be evaluated. Subsection 120.07.a. Finally, the Commission may approve an exceptional location for a well upon application and hearing. Subsection 120.40.

At this stage of oil and gas development in Idaho, use of default units is reasonable, given the current lack of available geologic, engineering, and production data. The default sizes are likely larger than the area to be drained by a well, which is appropriate; having smaller units increases the risk of harm to correlative rights. Moreover, it is not difficult to add infill wells if data supports smaller units. Given these considerations, the Department rules strike an appropriate balance between certainty and flexibility using regulatory procedures and conventions employed by many other state oil and gas regulatory agencies.

4. Department Issue: The Department does not have jurisdiction over Class II Underground Injection Control (“UIC”) wells. UIC wells are currently under the jurisdiction of the Idaho Department of Water Resources, which has not been delegated authority to implement the UIC program from the U.S. Environmental Protection Agency.

SOGRE Response: Many state oil and gas regulatory agencies have delegated authority from U.S. EPA to implement the Class II UIC program in their respective state. Other states, however, have elected not to seek delegation of any part of the UIC program from EPA. Whether a state seeks delegated authority for the EPA’s Class II UIC program is within the sound discretion of each state. However, in most states with delegated authority for Class II UIC wells, the state oil and gas regulatory agency is the regulating body. To the extent Class II injection wells are being constructed and permitted in Idaho, the Department may wish to consider pursuing delegation from EPA or, at a minimum, developing well construction/integrity rules or standards for such wells.

5. Department Issue: The public has expressed a concern that the Department should actively monitor production meters and reporting to ensure mineral owners are paid fairly.

SOGRE Response: A recent informal survey of state oil and gas regulatory agencies by the Interstate Oil and Gas Compact Commission indicates that most state agencies do not meter production or routinely verify all production reports.

6. Department Issue: Processing times for drilling applications are set by statute at 15 days. This will potentially be difficult for staff to meet at current staffing levels. 47 320(1)(e).

SOGRE Response: It is foreseeable that the current statutory processing requirements could pose a challenge for the Department if oil and gas development accelerates, especially if staffing is not increased. If the Department cannot reasonably keep up with processing permit applications, the Legislature may find it necessary to revisit the statutory deadline requirement with some frequency. The consequences of the Department’s failure to meet the processing deadlines are unclear.

An alternative approach followed by some states is to have a statutory requirement for a “timely and efficient” permitting process, without firm timelines built into the statute. The Legislature could monitor processing times, and stakeholders who believed the process was not meeting the Legislature’s intent could raise their concerns with the Department or the Legislature.

### C. Issues for Department Consideration Identified by SOGRE Team

The SOGRE Team identified several issues for the Department's consideration as its rules and procedures continue to evolve to meet the changing environment for oil and gas exploration and production in Idaho.

1. **Spacing units and well setback requirements for horizontal well development.** Few state oil and gas regulatory agencies have specific spacing unit and well setback requirements for horizontal development.<sup>1</sup> Arkansas is a notable exception to this general statement. The Department has a unique opportunity to develop spacing rules for horizontal development prior to such development emerging in the state. To give just one example, to the extent Idaho's shale formations are liquids-rich, 40-acre spacing will not be a useful paradigm for horizontal development of such shales.
2. **The Department may wish to transfer some administrative obligations to the Operator/Applicant.** Currently, the Department is obligated to send unit operations or integration applications to all known and located uncommitted owners, all working interest owners, and the respective city or county where the proposed unit is located. Many state oil and gas regulatory agencies require the applicant for integration or unit operations to serve interested parties, including uncommitted owners and working interest owners, with copies of the application and a notice of hearing, and to certify to the regulatory agency that such parties were timely served. Given the Department's staffing concerns, it is recommended the Department consider shifting the burden of mailing such applications and notices to the applicant.
3. **The Department has not promulgated rules specific to enhanced oil recovery operations.** The Department has statutory authority to create unit operations for enhanced oil recovery (EOR), 47 323(1), (2)(b), but its unit operations' rules do not directly address EOR operations. EOR units can be an important tool to fulfill the Department's Legislative mandates. The Commission should consider whether its unit operation rules adequately accommodate applications for EOR units.
4. **Develop electronic forms and filing, along with a robust database system to store and manage regulatory data.** Obtaining, storing, maintaining, retrieving, and disseminating data related to oil and gas wells, hydrocarbon production, spills and releases, and other aspects oil and gas operations is a core function of an oil and gas conservation commission. All stakeholders will expect the Department to be able to produce data and statistics on all subjects within its jurisdiction on demand. Having the capability to process regulatory forms electronically (rather than paper) will facilitate the Department's ability to meet these expectations. The Department should consider investing in a sophisticated database system and electronic forms at this early stage of development of the state's oil and gas resources. Doing so almost certainly will be more cost-effective than efforts to retro-fit such a system and capture existing data that is available only in paper copy.
5. **Bonding requirements; abandoned wells.** The Department requires a performance bond of \$10,000 plus \$1 per foot of planned well length. Subsection 220.01. Like many states, the Department allows operators to post a "blanket bond" to cover all of the operator's wells within the state. Subsection 220.02. For example, an operator may cover 30 wells with a \$100,000 bond, or \$3,333 per well; similarly, 60 wells can be bonded for \$150,000 or \$2,500 per well. *Id.*

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<sup>1</sup> See "Horizontal Well Development Pooling, Spacing and Unitization: A Regulatory Toolbox for Key Policy, Regulatory, and Statutory Considerations," IOGCC Legal & Regulatory Affairs Committee, June 2015." <http://iogcc.ok.gov/Websites/iogcc/images/PSToolboxFINAL.pdf>

The Department has additional financial assurance requirements for wells that are declared inactive due to a cessation of activity for more than 24 months. The Department can require operators to post a bond of \$10,000 plus \$8 per foot of well length for inactive wells. The intent of this provision is to capture the approximate cost of well abandonment for marginal wells that are at the highest risk of being orphaned.

While the Department's financial assurance requirements are consistent with requirements in some other states this level of bonding may not be sufficient to cover the cost to plug, abandon, and reclaim a well site. During the recent commodity price drop many operators declared bankruptcy and, in some cases, abandoned multiple wells. The Department's inactive well bonding requirements are good tools, but have limitations: the Department has the burden of identifying inactive wells, and an operator may not be able to satisfy the additional financial assurance sought by the Department if a large percentage of its wells are inactive.

The Department may want to consider increasing its financial assurance requirements or seeking the creation of a separate, dedicated fund for plugging and reclaiming abandoned wells and oil and gas locations.

6. **Transfer of wells.** The Department has specific rules governing the transfer of drilling permits. Subsection 221. The Department may wish to consider a provision that allows the Department to evaluate the economic viability of the acquiring entity, and the right to condition the transfer on a demonstration of economic viability, an increased performance bond, or other conditions.
7. **UIC Well Construction Requirements.** Although the Department does not have jurisdiction over permitting UIC wells, it may wish to consider promulgating rules requiring operators to comply with EPA UIC well construction requirements. Alternatively, the Department may wish to review other states' UIC wellbore construction requirements as models that the Department could modify as necessary to meet Idaho's geologic conditions. The Department should be aware that wells initially drilled for UIC service may later be converted to another use and, therefore, stringent wellbore construction requirements should be imposed and enforced.
8. **Hydraulic fracturing offset requirements (for unconventional development).** High pressure hydraulic fracturing used during completion of wells in unconventional formations has the potential to cause damaging pressure increases (sometimes called "frac hits") in wells proximate to hydraulically fracturing. Although horizontal drilling and high pressure hydraulic fracturing have not yet occurred in Idaho, the Department may wish to consider adopting rules or policies to minimize the risk of potential impacts to nearby wellbores during high pressure hydraulic fracture stimulation operations.
9. **Surface casing depth requirement.** The Department's surface casing requirements (Subsection 310.05.b.) do not seem to be correlated to the depth of known fresh water aquifers, although the rules do require surface casing to "provide for . . . protection of fresh water." (Subsection 310.05). The Department should consider whether the existing standards (ten percent of total well depth or a minimum of 200 feet in areas where pressures or formation are unknown) provide the Department flexibility and discretion to require deeper surface

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<sup>2</sup> See "State Financial Assurance Requirements," IOGCC Legal & Regulatory Affairs Committee, September 2016." [http://iogcc.ok.gov/Websites/iogcc/images/Financial\\_Assurances\\_FINAL\\_web.pdf](http://iogcc.ok.gov/Websites/iogcc/images/Financial_Assurances_FINAL_web.pdf)

casing in the event a fresh water aquifer exists or is later determined to exist at a depth that exceeds ten percent of the planned wellbore or 200 feet. For example, other states' surface casing rules require surface casing to be deeper (by "X" feet) than the deepest known fresh water aquifer a wellbore will penetrate.

10. **Induced seismicity.** Deep injection of fluids under pressure is known to be a possible trigger for seismic events. Many state oil and gas regulatory agencies have recently adopted rules or developed policies intended to minimize the potential for induced seismicity related to injection of exploration and production waste in Class II disposal wells. Some states also have adopted rules or policies related to high pressure hydraulic fracturing operations. The Department may wish to consider policies or rules related to the potential for induced seismicity related to Class II disposal wells or high pressure hydraulic fracturing. The States First publication, "Potential Injection-Induced Seismicity Associated with Oil & Gas Development: A Primer on Technical and Regulatory Considerations Informing Risk Management and Mitigation" is an excellent resource concerning induced seismicity. The Primer is available at [www.statesfirstinitiative.org/induced-seismicity-work-group](http://www.statesfirstinitiative.org/induced-seismicity-work-group).
11. **Clarify Commission's authority to impose penalties for violations of orders and permit conditions.** Idaho Code section 47-325(c) expressly provides the Commission authority to assess a civil penalty against any person who violates any provision of the Act or implementing rules. The Commission may impose any such penalties following a properly noticed Commission hearing. *Id.* This section of the Act does not expressly authorize the Commission to impose penalties for violations of Commission permits or orders. Section 47-325(d) of the Act authorizes the Commission to bring a civil suit in district court seeking injunctive relief for violations of the Act, rules, regulations or orders; this section does not authorize civil penalties. The Department should consider seeking an amendment to section 47-325(c) to provide the Commission express authority to impose civil penalties for violations of Commission permits and orders.
12. **Produced water reuse and recycling initiatives.** Extracting hydrocarbons can result in production of large volumes of "produced water," which occurs naturally in the hydro carbon formations, as well as water used during well completion that flows back to the surface. Produced water has historically been considered a waste product, and has been managed and disposed of accordingly. In recent years reuse and recycling of produced water has become a topic of keen interest to state regulators, the regulated community, and many non-governmental entities, particularly in Western states. For example, the States First Initiative ([www.statesfirstinitiative.org](http://www.statesfirstinitiative.org)) is sponsoring a series of multi-stakeholder roundtable discussions regarding challenges and opportunities associated with reuse and recycling of produced water. Some states have recently addressed withdrawal, use or management of produced water through legislation or judicial action. The Department may want to consider engaging with States First or other similar initiatives and consider regulatory mechanisms to encourage and facilitate reuse and recycling of produced water in the future.

**Disclaimer:**

The SOGRE Team has not performed a legal analysis or interpretation of the Department's Rules or the Idaho Oil and Gas Conservation Act, and nothing contained in this Report should be construed to be a legal analysis or interpretation.

## Appendix 1

### Specific Statutory Authority Granted to the Commission

The Act expressly vests the Commission with the following specific regulatory authority, among others:

1. to conduct investigations of oil and gas operations in the state, to require operators to keep records of their operations; to summon witnesses, administer oaths, and require the production of documents. Idaho Code 47 319(3), 5(i); 325;
2. to require the drilling, casing, operation, and plugging of wells. Idaho Code 47 3195(c);
3. to post financial assurance to ensure compliance with the Act with respect to drilling, maintaining, operating and plugging wells. Idaho Code 47 319(5)(e);
4. to require the measurement of oil and gas produced from a well using a standardized method, to require metering of wells, and to limit production from wells with inefficient gas-oil or water-oil ratios. Idaho Code 47 319(5)(f), (g), (h);
5. to regulate the shooting and treatment of wells. Idaho Code 47 319(6)(b);
6. to regulate the spacing of wells. Idaho Code 47 319(6)(c);
7. to regulate disposal of saltwater and oil field wastes. Idaho Code 47 319(6)(e);
8. to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practices and procedures before the Commission, and to administer the Act. Idaho Code 47-319(8).
9. The Act requires an operator to notify the Commission and obtain a permit prior to drilling or treating well. Idaho Code 47 320.
10. The Act provides the Department statutory authority to space, pool, and unitize minerals. Idaho Code 47-321; -322; -323.
11. The Act provides the Department authority to conduct administrative hearings, adjudicate disputes related to the Act or implementing rules, and issue legally binding orders, subject to judicial review, for matters within the Department's jurisdiction. Idaho Code 47-324.
12. The Act provides the Commission with authority to enforce violations of the Act or implementing rules, and to impose administrative and civil penalties for violations. Idaho Code 47-319(3), 5(b), (i); -325. The Department's statutory authority to impose a penalty of up to \$10,000 per day for a violation is consistent with penalty authority among other states' oil and gas regulatory agencies.
13. The Act provides specific funding mechanisms for the Department to carry out its regulatory oversight mission. Idaho Code 47-320(3), -330. The Idaho funding mechanisms are common among other state oil and gas regulatory agencies.



## Appendix 2

### Index to Implementing Regulations

Subchapter A: General Provisions. IDAPA 20.07.02.000-099. Includes:

- Definitions – subpart 010.
- Protection of Correlative Rights – subpart 015.
- Permit Processing – subpart 040
- Enforcement – subpart 050

Subchapter B – Exploration and Development. IDAPA 20.07.02. 100-199. Includes:

- Seismic Operations – subpart 100
- Surface Owner Protection – subpart 110
- Well Spacing – subpart 120
- Integration – subpart 130

Subchapter C – Drilling, Well Treatment, and Pit Permits. IDAPA 20.07.02.200 299. Includes:

- Drilling Permits – subpart 200
- Well Treatments – subpart 210
- Hydraulic Fracturing – subpart 211
- Financial Assurance – subpart 220
- Transfer of Drilling Permits – subpart 221
- Pit Requirements – subpart 230

Subchapter D – Well Sites and Drilling. IDAPA 20.07.02.300-399. Includes:

- Identification of wells – subpart 300
- Well Site Operations – subpart 301
- General Drilling Rules – subpart 310
- Mechanical Integrity Testing – subpart 320
- Well Completion Reporting – subparts 340-341.

Subchapter E – Production. IDAPA 20.07.02.400-499. Includes:

- Production Reports – subparts 400-419
- Tank Batteries – subpart 420
- Gas Processing Facilities – subpart 430

Subchapter F – Well Activity and Reclamation IDAPA 20.07.02.500-510. Includes:

- Active Well – subpart 500
- Inactive Wells – subpart 501
- Well Plugging – subpart 502
- Surface Reclamation – subpart 510





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# Idaho Statutes

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## TITLE 47 MINES AND MINING CHAPTER 3

### OIL AND GAS WELLS – GEOLOGIC INFORMATION, AND PREVENTION OF WASTE

47-317. DRILLING LOCATIONS. (1) To prevent or assist in preventing the waste of oil and gas, to avoid drilling unnecessary wells or to protect correlative rights, the department may, on its own motion or on the application of an interested person, and after notice and opportunity for hearing, issue an order establishing drilling units on a statewide basis, or for defined areas within the state, or for oil and gas wells drilled to varying depths.

(2) An order establishing drilling units shall comply with section 47-318(2), Idaho Code.

(3) In the absence of an order by the department establishing drilling or spacing units, or authorizing different well density patterns for particular pools or parts thereof, the following requirements shall apply:

(a) Oil wells. Every well drilled for oil shall be located in the center of a drilling unit consisting of a forty (40) acre governmental quarter-quarter section or lot or tract, or combination of lots and tracts substantially equivalent thereto, with a tolerance of two hundred (200) feet in any direction from the center location.

(i) No oil well shall be drilled less than nine hundred ninety (990) feet from any other well drilling to and capable of producing oil from the same pool; and

(ii) No oil well shall be completed in a known pool unless it is located more than nine hundred ninety (990) feet from any other well completed in and capable of producing oil from the same pool.

(b) Vertical gas wells. Every vertical well drilled for gas shall be located in a drilling unit consisting of either a one hundred sixty (160) acre governmental quarter section or lot or tract, or combination of lots and tracts substantially equivalent thereto, or a six hundred forty (640) acre governmental section or lot or tract, or combination of lots or tracts substantially equivalent thereto. A vertical gas well located on a one hundred sixty (160) acre drilling unit shall have a minimum setback of three hundred thirty (330) feet to the exterior boundaries of the quarter section. A vertical gas well located on a six hundred forty (640) acre drilling unit shall have a minimum setback of six hundred sixty (660) feet to the exterior boundaries of the governmental section.

(i) No gas well shall be drilled less than nine hundred ninety (990) feet from any other well drilling to and capable of producing gas from the same pool; and

(ii) No gas well shall be completed in a known pool unless it is located more than nine hundred ninety (990) feet from any other well completed in and capable of producing gas from the same pool.

(c) Horizontal wells. Every horizontal well drilled shall be located in a drilling unit consisting of a six hundred forty (640) acre governmental section or lot or tract, or combination of lots or tracts substantially equivalent thereto. No portion of the completed interval of a horizontal lateral shall be closer than six hundred sixty (660) feet to a section boundary or uncommitted tract within a unit. Except for wells in federal exploratory units or in secondary units, the completed interval shall be no closer than one thousand three hundred twenty (1,320) feet to any horizontal well or vertical well completed in the same formation.

(d) Notice. After drilling, testing and completing a well that meets the location requirements in paragraphs (a), (b) or (c) of this subsection, but prior to producing that well, an operator shall provide notice and opportunity for hearing for the proposed drilling unit. In addition to any other notice required by statute or rule, the operator shall provide notice of the proposed drilling unit by certified mail to all uncommitted owners within the proposed drilling unit. The department may authorize drilling units upon application, notice and an opportunity for hearing as provided in section 47-328, Idaho Code. However, prior to establishing a drilling unit for a well that meets the location requirements in paragraph (a), (b) or (c) of this subsection, the department may grant a permit to drill that provides only the notice required in section 47-316, Idaho Code.

(4) An operator may request a change in the size, shape or location of a drilling unit under this section, as provided in section 47-318(6), Idaho Code. Request may be made for drilling units that are:

- (a) Larger or smaller than forty (40) acres for oil;
- (b) Larger or smaller than one hundred sixty (160) acres for gas; or
- (c) Not located within the boundaries of a governmental section, quarter section or quarter-quarter section.

(5) Changes to drilling units may be authorized upon application, notice and an opportunity for hearing as provided in section 47-328, Idaho Code. To authorize a change, the department shall find that such change would assist in preventing the waste of oil and gas, avoid drilling of unnecessary wells, or protect correlative rights. In addition to any other notice required by statute or rule, an operator shall provide proper notice and a copy of the application to all uncommitted owners within the proposed unit and to all other parties an operator reasonably believes may be affected. In establishing drilling units under this section, the department shall review the drilling unit's size, shape and

location based on the application, any supporting exhibits, and evidence introduced at a hearing.

History:

[47-317, added 2017, ch. 271, sec. 10, p. 687.]

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## TITLE 47 MINES AND MINING CHAPTER 3

### OIL AND GAS WELLS – GEOLOGIC INFORMATION, AND PREVENTION OF WASTE

47-318. WELL SPACING. (1) The department shall promptly establish spacing units for each pool except in those pools that have been developed to such an extent that it would be impracticable or unreasonable to establish spacing units at the existing stage of development.

(2) An order establishing spacing units shall specify the size, shape and location of the units, which shall be such as will, in the opinion of the department, result in the efficient and economical development of the pool as a whole. Any unit established by the department shall be geographic. The geographic boundaries of the unit shall be described in accordance with the public land survey system. Except where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require, or as provided in paragraph (b) of this subsection, the size of the spacing units shall not be smaller than the maximum area that can be efficiently and economically drained by one (1) well; provided:

(a) If, at the time of a hearing to establish spacing units, there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one (1) well, the department shall make an order establishing temporary spacing units for the orderly development of the pool, pending the obtaining of the information required to determine what the permanent spacing should be.

(b) Where the federal agency administering federal minerals that would otherwise be included in a spacing unit has not leased or has failed to offer such federal minerals for lease auction for at least six (6) months, such federal minerals may be excluded from the unit upon application or upon the department's own determination.

(3) Except where circumstances, geologic or otherwise, affecting the orderly development of a pool reasonably require, spacing units shall be of approximately uniform size and shape for the entire pool. The department may establish spacing units of different sizes or shapes for different parts of a pool or may grant exceptions to the size, shape or location of any spacing unit or units or may change the sizes or shape of one (1) or more existing spacing units.

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

necessary exceptions for wells drilled or drilling at the time of the filing of the application. If the department finds that a well drilled at the prescribed location would not be likely to produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, or for other good cause shown, the department is authorized to make an order permitting the well to be drilled at a location other than that prescribed by such spacing order. Application for an exception shall be filed with the department and may be granted where it is shown that good cause for such exception exists and that consent to such exception has been given by the operators of all drilling units directly or diagonally offsetting the drilling unit for which an exception is requested, and, as to the lands upon which drilling units have not been established, by the majority of mineral interest owners of those lands which would be included in directly or diagonally offsetting drilling units under said order, if said order were extended to include such additional lands.

(5) An order establishing spacing units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the department from time to time to include additional lands determined to be underlaid by such pool or to exclude lands determined not to be underlaid by such pool. A pool may be divided into zones and a spacing unit for each zone may be established if necessary to prevent or assist in preventing waste of oil and gas, to avoid drilling unnecessary wells, to protect correlative rights or to facilitate production through the use of innovative drilling and completion methods. The spacing units within the zone may differ in size and shape from spacing units in any other zone but may not be smaller than the maximum area that can be efficiently and economically drained by one (1) well.

(6) An order establishing spacing units may be modified by the department to change the size, shape or location of one (1) or more spacing units, or to permit the drilling of additional wells on a reasonably uniform pattern. An operator may apply for changes to the size, shape or location of spacing units. The department will review applications to change the size, shape or location of spacing units.

(7) Upon the filing of an application to establish spacing units, no additional well shall be commenced for production from the pool until the order establishing spacing units has been made, unless the commencement of the well is authorized by order of the department.

History:

[(47-318) 47-321, added 1963, ch. 148, sec. 7, p. 433; am. 1974, ch. 17, sec. 32, p. 308; am. 2013, ch. 189, sec. 3, p. 470; am. 2015, ch. 94, sec. 1, p. 229; am. 2016, ch. 48, sec. 4, p. 133; am. and redesig. 2017, ch. 271, sec. 11, p. 688.]

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## TITLE 47 MINES AND MINING CHAPTER 3

### OIL AND GAS WELLS – GEOLOGIC INFORMATION, AND PREVENTION OF WASTE

47-328. RULES FOR COMMISSION – ADMINISTRATIVE PROCEDURES. (1) The commission shall have authority to hear rulemaking proceedings, complaints filed with it pursuant to this chapter and appeals from the oil and gas administrator's decision on an application filed pursuant to this chapter, and any other matter the commission decides should be heard by the commission. The commission may act on its own motion. The commission may prescribe rules governing the procedure before it, subject to the provisions of the administrative procedure act, chapter 52, title 67, Idaho Code. Provided however, that no rulemaking except for that done under section 67-5226, Idaho Code, may be conducted for twelve (12) months beginning on July 1, 2017.

(2) In all cases where a complaint is made by the commission or any person that any provision of this act or any rule or order of the commission is being violated, the commission shall serve notice of any hearing to be held on such application or complaint to the interested persons by certified mail, return receipt requested, or in the same manner as is provided in the rules of civil procedure for the service of summons in civil actions. Where the interested person is unknown or cannot be located, the commission shall serve notice by publishing at least one (1) notice of the hearing to such person in a newspaper of general circulation in the county where the affected tract is located. Such notice must be sent, delivered or published, as appropriate, at least five (5) business days before the date of the hearing.

(3) Except as provided in section 47-316(1)(a), Idaho Code, and subsection (2) of this section, any request for an order related to oil and gas activities within the commission's jurisdiction, other than a civil penalty proceeding pursuant to section 47-329, Idaho Code, or other enforcement action by the department of lands or the commission, shall be made by application to the department of lands and processed as provided in this section .

(a) The department shall notify the applicant within five (5) business days of receipt of an application if additional information is required for the department to evaluate the application.

(b) For applications involving an order regarding unit operations or integration of a drilling unit, the applicant shall send a copy of the application and supporting documents to all known and located uncommitted owners, to all working interest owners within the unit, and to the respective city or county where the proposed unit is

located. The mailing shall be sent by certified mail within seven (7) calendar days of filing the application and include notice of the hearing date on which the oil and gas administrator will consider the application. [The application may be.] For any uncommitted owners and working interest owners who cannot be located, an applicant shall publish notice of any application for an order, notice of hearing and response deadline once in a newspaper of general circulation in the county in which the affected property is located and request the department publish notice on its website within seven (7) calendar days of filing of the application. Only an uncommitted owner in the affected unit may file an objection or other response to the application, and the uncommitted owner shall file at least fourteen (14) calendar days before the hearing date provided in the notice.

(c) For applications not involving paragraph (b) of this subsection, the department and any uncommitted owner within the area defined in the application may file objections or other responses to the application and shall file at least fourteen (14) calendar days before the hearing date provided in the notice.

(d) The director [oil and gas administrator] shall hear the application and make a decision on the application's merits. The director [oil and gas administrator] shall set regular hearing dates. Applications shall be filed at least forty-five (45) calendar days before a desired hearing date. Untimely applications shall be continued until the next hearing. The director [oil and gas administrator] may for good cause continue any hearing. The director [oil and gas administrator] may appoint a hearing officer, who shall have the power and authority to conduct hearings. Discovery is not permitted. The department may appear and testify at the hearing. When applications are uncontested, the applicant may request, and the director [oil and gas administrator] may allow, approval without a hearing based on review of the merits of a verified application and the supporting exhibits.

(e) The oil and gas administrator shall issue a written decision on any such application within thirty (30) calendar days of the hearing. The director's [oil and gas administrator's] decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission provided in subsection (d)[(4)] of this section.

(4) The oil and gas administrator's decision on an application or a request for an 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 oil and gas administrator within fourteen (14) calendar days of the date of issuance of the oil and gas administrator's written decision. The date of issuance shall be three (3) calendar days after the oil and gas administrator deposits the decision

in the U.S. mail, or the date on which he remits a decision electronically. 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, by certified mail, or by personal service. Any person who participated in the proceeding may file a response to the appeal within five (5) business days of service of a copy of the appeal materials. The appellant shall provide the oil and gas administrator with proof of service of the appeal materials on other persons as required in this section. The commission shall make a decision based on the record as set forth in the written submittals of only the appellant and any other participating qualified person, the oil and gas administrator's decision, and any oral argument taken by the commission at an appeal hearing.

(5) Appeals to the commission shall be heard at the next regularly scheduled commission hearing, or at a special meeting of the commission if determined by the commission. In no case will a hearing be later than thirty (30) calendar days after the filing of an appeal. The commission may take argument from, but not new testimony of, the appellant and other qualified participating persons at the hearing. The commission shall make a decision on the appeal at the hearing and issue a written order within five (5) business days of the hearing. The prevailing party shall draft a proposed written order and submit it within two (2) business days. The final order of the commission shall not be subject to any motion for reconsideration.

(6) If no appeal is filed with the commission within the required time, the decision of the oil and gas administrator shall become the final order.

(7) Judicial review of actions taken by the commission shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(8) For an application or request for an order submitted under subsection (c)[(3)] of this section, only a person qualified under subsection (d)[(4)] of this section who has completed the appeal procedures set forth in this section shall be considered to have exhausted administrative remedies as required in section 67-5271, Idaho Code.

(9) Each order shall include a reasoned statement in support of the decision, including a concise statement of facts supporting any findings, a statement of available procedures and time limits for appeals. Findings must be based exclusively on materials in the record. The applicant and any participating qualified person shall be served with a copy of the order. The order shall include or be accompanied by a certificate of service.

[(10)](j) Every application shall be signed by the applicant or his representative, and his address shall be stated thereon. The signature of the applicant or his representative constitutes a certificate by him that he has read the application and that to the best of his knowledge,

information and belief there is good ground to support the same. Each application shall be of such form and content and accompanied by the number of copies required by rule of the commission. Each application shall be accompanied by a fee as established in statute or rule.

History:

[(47-328) 47-324, added 1963, ch. 148, sec. 10, p. 433; am. 1974, ch. 17, sec. 33, p. 308; am. 1981, ch. 247, sec. 1, p. 495; am. 1993, ch. 216, sec. 42, p. 625; am. 2016, ch. 48, sec. 7, p. 141; am. 2017, ch. 121, sec. 3, p. 284; am. and redesig. 2017, ch. 271, sec. 21, p. 699.]

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**07. Forfeiture of Surface Use Bond.** The Department may forfeit this bond upon failure of the owner or operator to reclaim the disturbed area in a timely manner, or upon failure of the parties to reach a surface use agreement, upon the completion of drilling operations. (3-29-12)

**111. -- 119. (RESERVED)**

**120. WELL SPACING.**

In the absence of an order by the Commission setting spacing units for a pool, or a unit operation as described in Section 140, the following rules shall apply: (4-11-15)

**01. Wells Drilled for Oil; Standard Spacing Unit and Well Location.** Every well drilled for oil must be located in the center of a forty (40) acre governmental quarter quarter section, lot or tract, or combination of lots or tracts substantially equivalent thereto as shown by the most recent governmental survey, with a tolerance of two hundred (200) feet in any direction from the center location; provided that no oil well shall be drilled less than nine hundred twenty (920) feet from any other well drilling to or capable of producing oil from the same pool, or no oil well shall be completed in a known pool unless it is located more than nine hundred twenty (920) feet from any other well completed in and capable of producing oil from the same pool. (10-21-92)

**02. Wells Drilled for Gas; Standard Spacing Unit and Well Location.** Every well drilled for gas must be located on a drilling unit consisting of approximately six hundred forty (640) contiguous surface acres, which shall be one governmental section or lot(s) equivalent thereto, upon which there is not located, and of which no part is attributed to, any other well completed in or drilling to the same pool. In areas not covered by United States Public Land Surveys, such drilling unit shall consist of an area which is: 1) bounded by four (4) sides intersecting at angles of not less than eighty five (85) degrees or more than ninety five (95) degrees; 2) the distance between two (2) points farthest apart thereon shall not exceed eight thousand five hundred (8,500) feet; and 3) shall contain at least six hundred (600) contiguous surface acres. In areas covered by United States Public Land Surveys, such drilling unit shall consist of one governmental section containing not less than six hundred (600) surface acres. A gas well must have a minimum setback of three hundred thirty (330) feet from the governmental section line. (4-11-15)

**03. Well Locations Adjacent to Spaced Areas.** The Commission shall have the discretion to determine the pattern location of wells adjacent to an area spaced by the Commission, or under application for spacing where there is sufficient evidence to indicate that the pool or reservoir spaced or about to be spaced may extend beyond the boundary of the spacing order or application, and the uniformity of spacing patterns is necessary to insure orderly development of the reservoir pool. (10-21-92)

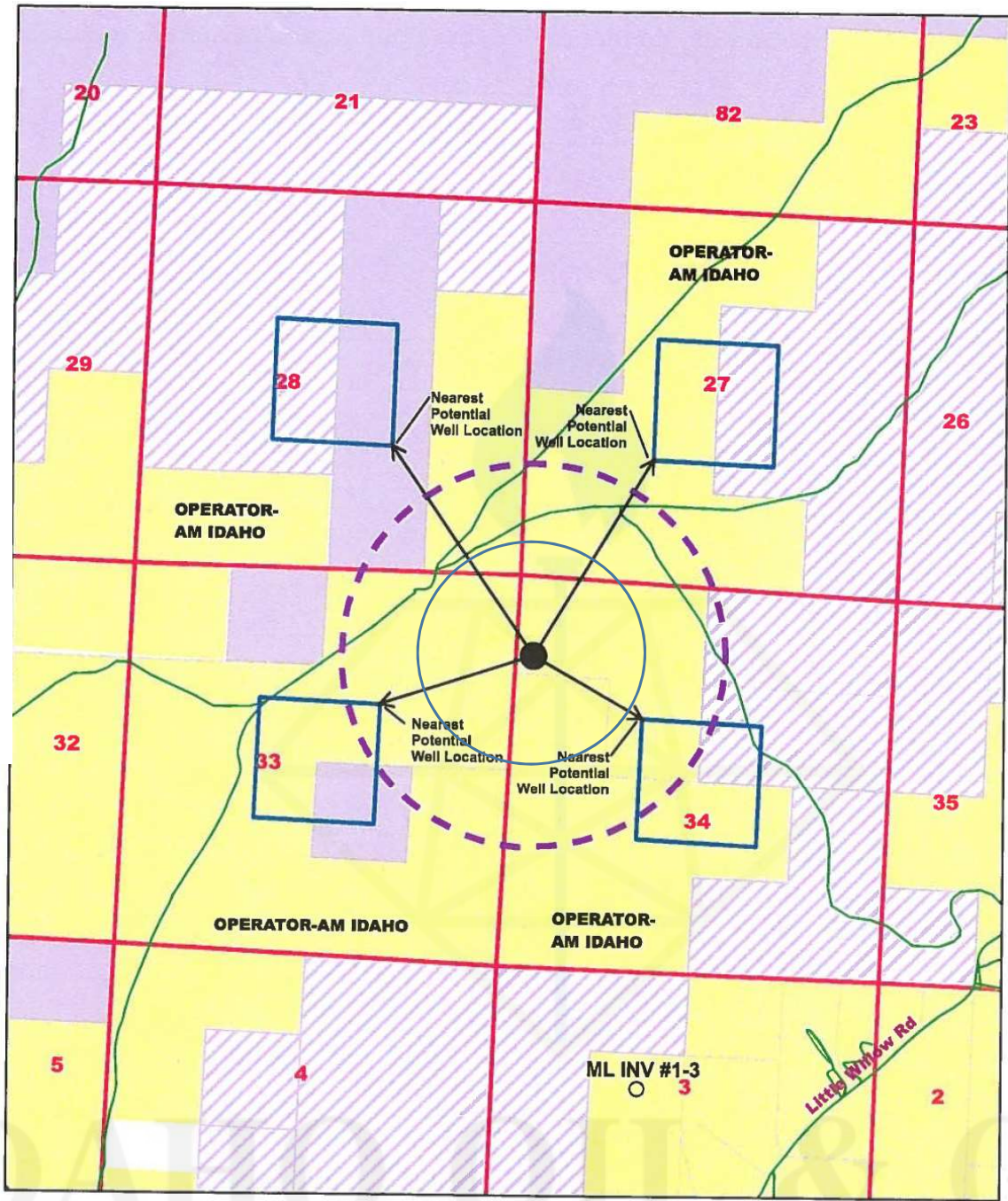
**04. Exceptions to Location of Wells and Well-Spacing Orders.** Upon proper application therefore, the Department may approve, as an administrative matter, an exception to Subsections 120.01 and 120.02 or any order of the Commission establishing well spacing for a pool. The application for an exception shall state fully the reasons why such an exception is necessary or desirable, include the consent of the owners of all drilling units directly or diagonally offsetting the drilling unit for which an exception is requested, and shall be accompanied by a plat showing: (4-11-15)

**a.** The location at which an oil or gas well could be drilled in compliance with Subsections 120.01 or 120.02 or the applicable order; (4-11-15)

**b.** The location at which the applicant requests permission to drill an oil or gas well and the location of the proposed spacing unit; and (4-11-15)

**c.** The location at which oil or gas wells have been drilled or could be drilled, in agreement with Subsections 120.01 or 120.02 or the applicable order, directly or diagonally offsetting the proposed exception. No exception shall prevent any owner or operator from drilling an oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by Subsections 120.01 or 120.02 or any applicable order of the Commission establishing oil or gas well-spacing units for the pool involved. (4-11-15)

**05. Spacing Unit Changes.** The Commission will review applications to change the size or shape of spacing units established by Subsections 120.01 or 120.02 of these rules or an order by the Commission. (4-11-15)



### Kauffman 1-34

Located in Section 34, T9N R4W, BM, Payette County, ID

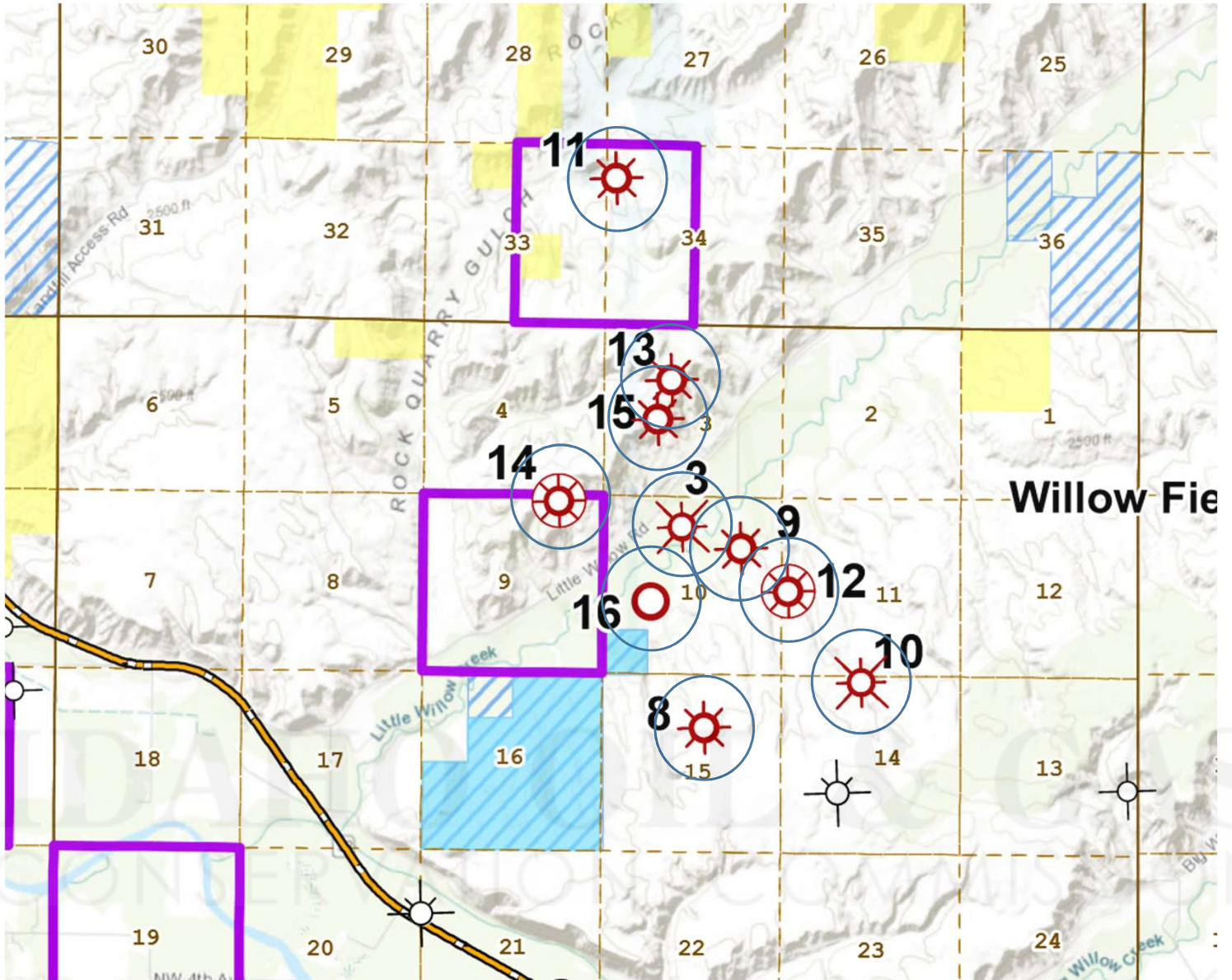
06/02/14

#### Legend

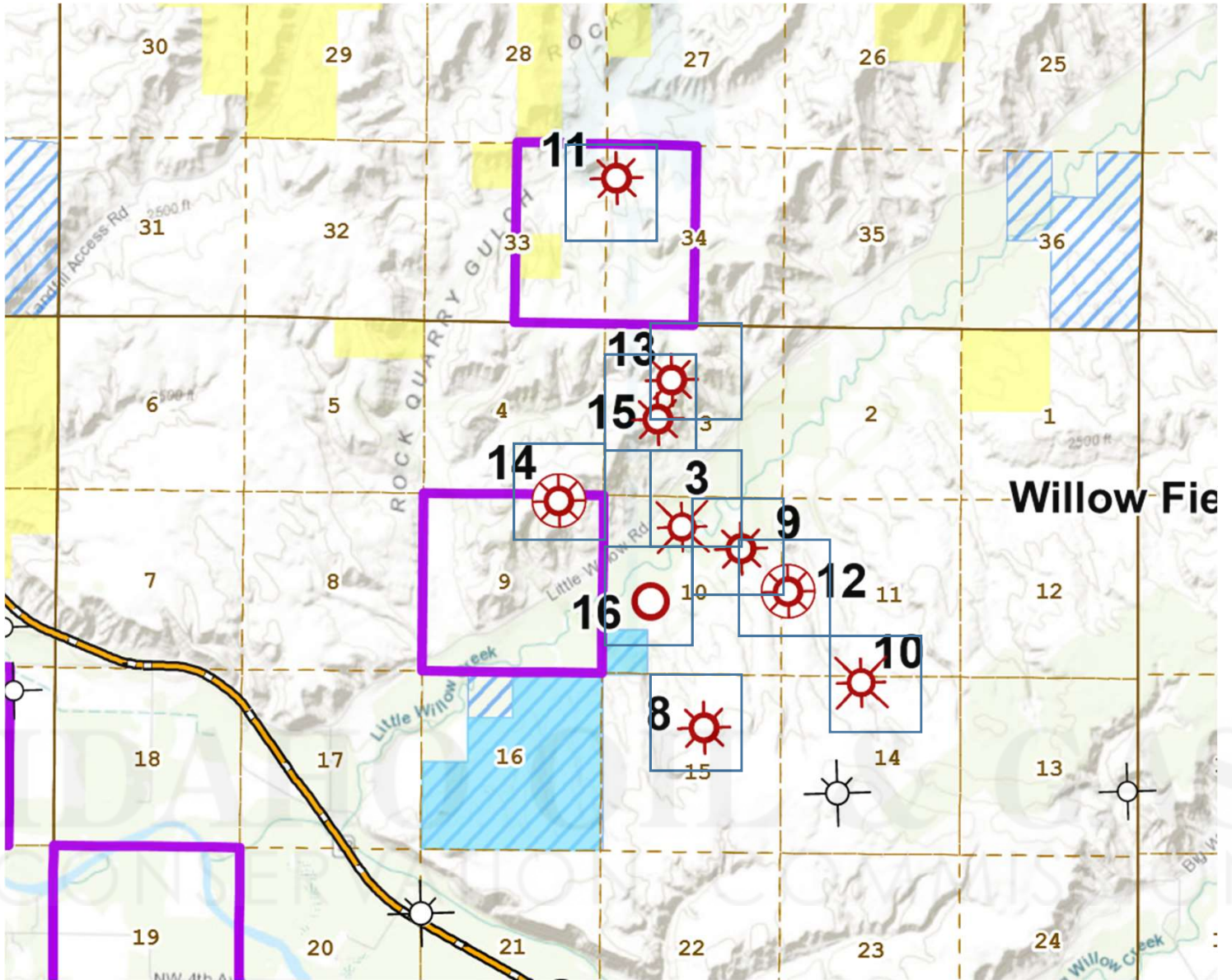
- Legal Location
- - - Anticipated Well Drainage Zone (1 Mile Diameter Circle)
- Section Lines
- Roadways
- Property Boundary
- AM Idaho
- BLM owns surface and minerals
- BLM owns mineral rights only
- Proposed Bottom Hole Well Location



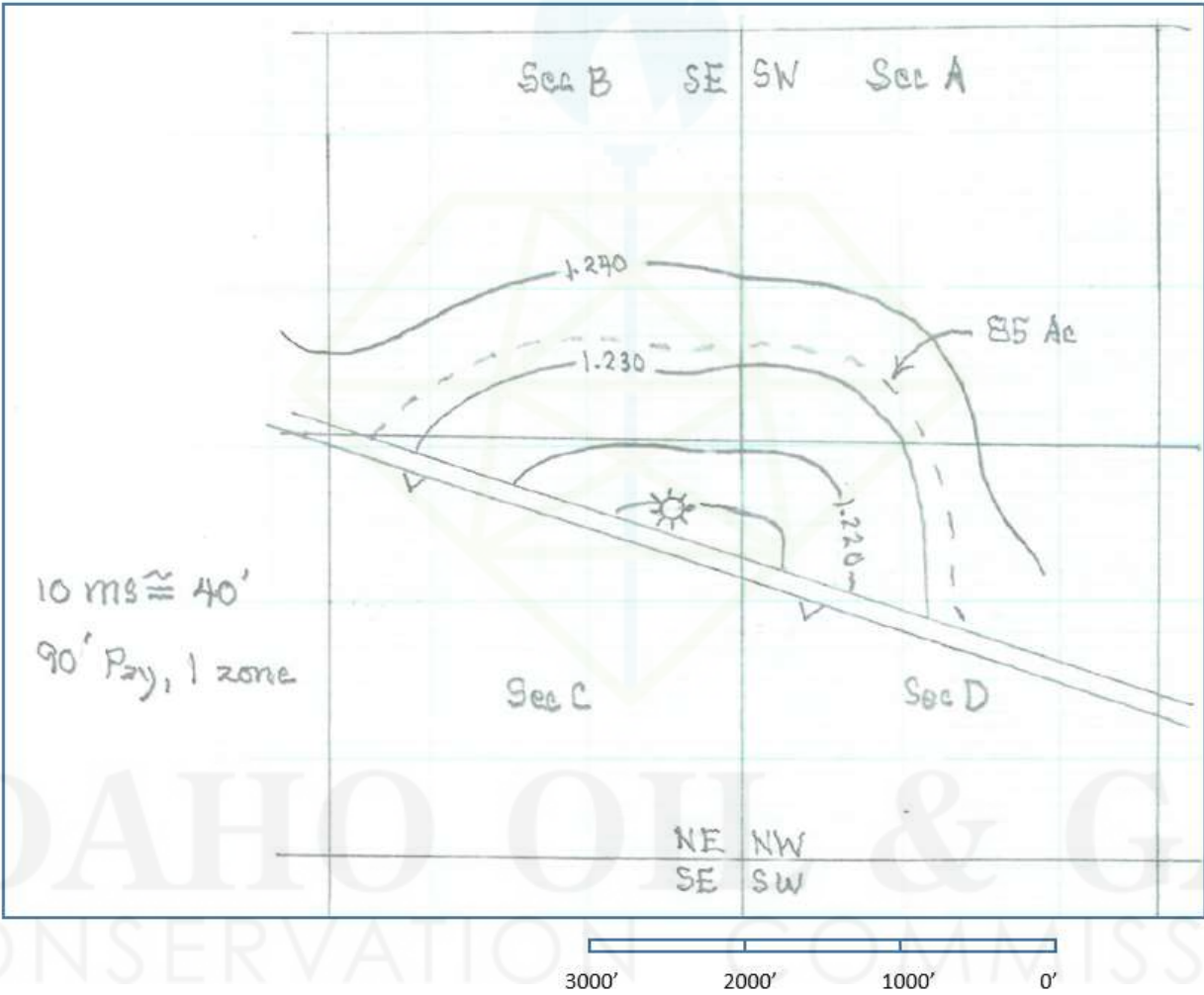
1 inch equals 2,000 feet







HYPOTHETICAL SEISMIC STRUCTURE MAP IN TIME (SECONDS)



Summary of equations – provided by Commissioner Jim Classen

Area of a circle:

$$A = \pi r^2$$

Area of an acre:

43,560 square feet

Area of 160 acres:

6,969,600 square feet

Calculating the radius of a 160 acre circle:

$$6,969,600 / \pi = 2,218,911$$

$$[\sqrt{2,218,911}] = 1,489.6 \text{ foot radius}$$

5,280 feet = 1 mile diameter / 2 = radius is 2,640 feet

Area of circular mile:

$$\pi r^2 = \pi \times (2,640)^2 = 21,884,544 \text{ square feet}$$

$$21,884,544 / 43,560 = 502.4 \text{ acres}$$

5,280 = 49.8 divisions

160 acre circle = 1489.6' = 14.05 divisions



IDAHO OIL & GAS  
CONSERVATION COMMISSION