

BEFORE THE IDAHO DEPARTMENT OF LANDS

Application of AM Idaho, LLC, and Alta Mesa Services, LP to (a) Establish a Spacing Unit and for the Integration of All Uncommitted Owners in the Proposed Unit Consisting of the SE¼ of Section 9, the SW¼ of Section 10, the NW¼ of Section 15 and the NE¼ of Section 16, all Located in Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho; and

In the Matter of the Application of AM Idaho, LLC, and Alta Mesa Services, LP to (a) Establish a Spacing Unit and (b) Integrate Unleased Mineral Owners, in the Proposed Unit Consisting of the SE¼ of Section 10, the SW¼ of Section 111, the NW¼ of Section 14 and the NE¼ of Section 15, all Located in Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho.

AM Idaho, LLC, and Alta Mesa Services, LP, Applicant.

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

**Docket Nos.
CC-2016-OGR-01-004 and
CC-2016-OGR-01-005**

I. PROCEDURAL BACKGROUND and PARTIES

This matter is the result of petitions filed by AM Idaho, LLC and Alta Mesa Services, LP (“Applicant”) to amend two existing spacing and integration orders issued by the Director of the Idaho Department of Lands that established two temporary spacing units for a period of eighteen months. Specifically, by its Petition to Amend Order dated April 30, 2018 (“Docket 004 Petition”), Applicant requested an order amending the January 18, 2018 Amended Order in Docket No. CC-2016-OGR-01-004 issued January 23, 2017, and adopted by the Final Order of the Commission dated March 8, 2017 (“Docket 004 Order”). By separate Petition to Amend Order dated April 30,

2018 (“Docket 005 Petition”), Applicant also requested an order to amend the Findings of Fact, Conclusions of Law and Order dated January 17, 2017 in Docket No. CC-2016-OGR-01-005 (“Docket 005 Order”). The Applicant and relief requested in the Docket 004 Petition and the Docket 005 Petition (collectively, “Petitions”) are identical. The mineral owners affected by the Petitions are not identical, and the lands at issue are comprised of two temporary spacing units that may be developed independently from one another. Thus, the Dockets are not consolidated; however, for purposes of administrative economy, both Petitions will be addressed herein. This Findings of Fact, Conclusions of Law and Order (“Order”) will be binding for both Petitions. The temporary spacing and integration units are as follows:

The Docket 004 Order established a temporary spacing unit and temporary integration of certain unleased mineral interest owners for the following real property located in Payette County, Idaho:

Township 8 North, Range 5 West

Section 9: SE $\frac{1}{4}$
Section 10: SW $\frac{1}{4}$
Section 15: NW $\frac{1}{4}$
Section 16: NE $\frac{1}{4}$

(“Docket 004 Subject Lands”); and the Docket 005 Petition established a temporary spacing unit and temporary integration of certain unleased mineral interest owners for the following real property, also located in Payette County, Idaho:

Township 8 North, Range 5 West

Section 10: SE $\frac{1}{4}$
Section 11: SW $\frac{1}{4}$
Section 14: NW $\frac{1}{4}$
Section 15: NE $\frac{1}{4}$

(“Docket 005 Subject Lands”) (collectively referred to herein as the “Subject Lands”; also collectively referred to as “Proposed Spacing Unit”).

The Applicant requested the following amendments to the Docket 004 Order and Docket 005 Order:

1. Amend Section IV.A to extend the temporary term of the Spacing Unit for an additional eighteen months.
2. Amend Section IV.B to provide that Applicant shall file an application to establish a permanent spacing unit by or before the last day of the seventeenth month within the additional eighteen-month period of the temporary term.
3. Amend Sections [IV.G and IV.H in the Docket 004 Order] [IV.H and IV.I in the Docket 005 Order] to apply only to that portion of the proceeds of production allocable to the combined royalty interest for the Spacing Unit.

Pursuant to Notice of Hearing dated May 18, 2018, a hearing in the above-captioned matters was held on Thursday, June 14, 2018, at 9 a.m. Mr. Mick Thomas, Oil and Gas Division Administrator for the Idaho Department of Lands (“Administrator Thomas”) appointed Kelly Williams as hearing officer and presiding officer (“Hearing Officer”) for the proceedings. Mr. Michael Christian represented the Applicant at the hearing, and Mr. David M. Smith, Vice President – Exploration for Applicant (“Mr. Smith”) provided testimony by telephone. Mr. Wade Moore, landman for Applicant (“Mr. Moore”) provided testimony in person. Mr. James Thum, Oil and Gas Program Manager for the Idaho Department of Lands (“Mr. Thum”), provided testimony and was represented by Deputy Attorney General, Joy Vega (“Ms. Vega”). No mineral owners appeared or made their attendance known by telephone or in-person at the hearing.

By Letter of Response dated May 28, 2018 (“Grace Letter”), Alan and Glenda Grace, mineral owners for lands affected by Docket 004 Petition and Order (“Mr. and Mrs. Grace”), indicated that they objected to the proposed spacing and integration. Applicant argued that the Grace Letter was not submitted in a timely manner and that as a result, the Petitions were unopposed. The Grace Letter is included in the record for Docket 004, but it does not serve as the basis for any conclusions contained in this Order.

Prior to the Hearing, at 9:00 a.m. on June 4, 2018, a prehearing conference was held via telephone (“Prehearing Conference”), and on June 5, 2018, Applicant submitted a brief addressing Applicant’s argument that because no timely objections to the Petitions were made, the Petitions were unopposed and a hearing was not necessary (“Applicant’s Prehearing Brief”). On June 12, 2018, the Hearing Officer issued a Prehearing Order, finding that the timeliness of the Grace Letter was not dispositive in determining whether to waive the hearing, and denying Applicant’s request to dispose of the Petitions administratively.

All parties and interested persons who wished to participate in the Hearing were provided with an opportunity to present testimony and evidence. The parties participating in the Hearing also were provided the opportunity to present opening and closing statements, cross examine witnesses, offer rebuttal testimony, and re-direct witnesses. Administrator Thomas and the Hearing Officer also were provided with an opportunity to ask questions and examine witnesses. During the Hearing, Applicant submitted a depiction of the lands and location of pipelines for illustrative purposes only. No exhibits were admitted into evidence or included in the record.

Administrator Thomas, having considered the testimony presented at the Hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order.

II. FINDINGS OF FACT

1. Pursuant to Idaho Code § 47-328(3)(b), the Applicant mailed a copy of the Petition and notice of the Administrator’s hearing date, by certified mail, return receipt requested, to the persons listed on the Applicant’s certificate of service.

2. Notice of the time, place, and purposes of the Hearing were duly published in the Argus Observer, a newspaper of general circulation in Payette County, pursuant to the requirements of Idaho Code § 47-328(3)(b).

3. This Findings of Fact, Conclusions of Law and Order incorporates by reference the entire record in this matter, including Petition 004, Petition 005 and accompanying exhibits, correspondence from mineral owners and public witnesses, correspondence and documents from Idaho Department of Lands personnel, notices, pleadings, responses from the parties, the hearing transcripts and the Docket 004 Order and Docket 005 Order.

4. The record reflects that AM Idaho, LLC and Alta Mesa Services, LP¹ filed the Petitions with IDL on April 30, 2018.

5. By letter dated May 7, 2018 (“IDL Notice”), IDL notified the Applicant that IDL determined it did not require any additional information as described in Idaho Code § 47-328(3)(a). The IDL Notice also states that “IDL’s acceptance of the Petitions for filing is only the initial step in the hearing process and cannot be construed as preventing IDL or the hearing officer from determining that additional information is needed in order to grant some or all of the requests contained in either Petition.”

6. No mineral owners made their attendance known by telephone or in-person at the hearing.

7. At the Hearing, Applicant provided witness testimony in support of facts set forth in the Petitions regarding operations undertaken and expenditures made by Applicant since approximately March 2017, to develop and produce oil and gas from the Subject Lands.

8. Specifically, Mr. Smith testified that Applicant drilled the Fallon #1-10 Well after identifying the best surface location based on analyses that included seismic data and production data from wells located near the Fallon #1-10 Well.

¹ The petitions stated the Applicant was “AM Idaho, LLC,” but at hearing Alta Mesa’s attorney clarified that he represented both AM Idaho, LLC and Alta Mesa Services.

9. Mr. Smith testified that timely completion reports and test results for the Fallon #1-10 Well had been prepared and submitted to the Department, and that the results from testing gave Applicant reason to expect the well would be commercially productive.

10. Mr. Smith further testified that Applicant has applied for a permit to drill the Fallon #1-11 Well located on a portion of the Subject Lands that are the subject of Docket Order 005.

11. Mr. Smith testified that based on his assessment of test data from the Fallon #1-10 Well and other wells in the vicinity, Applicant had determined to proceed with obtaining additional rights of way for pipelines to access and connect the Little Willow facility to additional wells and existing facilities.

12. Mr. Smith testified that once production is obtained from the Fallon #1-10 Well, and any well drilled by Applicant, a period of time for production is necessary in order to provide the best data from which to further define and establish the extent and location of the target reservoir.

13. Upon questioning from Ms. Vega, Mr. Smith stated that in general, a longer period of production from a well will provide a better set of data from which to evaluate the target reservoir; and a period of ninety days of production would be preferable to a period of thirty days of production in order to learn about any reservoir.

14. Mr. Smith testified that the Fallon #1-10 Well currently is shut in due to lack of access to a pipeline and processing facilities.

15. Mr. Smith also stated that Applicant has drilled and tested the Barlow #1-14 Well located in Section 14 of Township 8 North, Range 5 West, outside the Subject Lands.

16. Mr. Smith testified that in addition to obtaining approval from IDL for its application for permit to drill the Fallon #1-10 Well, Applicant also undertook significant effort

and expense to obtain rights of way and easements for pipelines across private property, and surface access and use for related infrastructure needs on the Subject Lands.

17. Mr. Smith testified that additional time would be required for Applicant to obtain the necessary rights of way, and to construct the pipeline, gathering lines and associated processing facilities, before Applicant would be able to connect the Fallon #1-10 Well, the proposed Fallon #1-11, and any future wells to pipelines or otherwise transport production from the well head.

18. Upon questioning from Ms. Vega, Mr. Smith testified that the amount of time necessary for construction and establishment of infrastructure could change, depending on various factors including weather, Applicant's ability to obtain the necessary permits, and Applicant's success in reaching agreements with landowners for use of private property.

19. Mr. Smith testified that the period of time necessary for the foregoing could be significantly longer than eighteen months as provided for by the current Docket 004 Order and Docket 005 Order. However, Mr. Smith also testified that he thought there was a contingency time built into the eighteen month period in order to account for delays.

20. Mr. Smith also testified that based on Applicant's experience with prior operations similar to those required on the Subject Lands, including obtaining approval of necessary permits and construction of rights of way, Applicant was reasonably confident that the work could be completed in eighteen months.

21. Mr. Smith stated that the working interest owners had been determined in these wells and that interest would not change whether the unit ultimately was larger or smaller than the temporary unit. The Petitions also stated that no mineral owners in either temporary spacing unit elected to participate as working interest owners.

22. Mr. Moore testified that Applicant had been engaged in obtaining rights of way for the anticipated pipeline route for at least two years, and that during that time, the route had been revised in accommodate terrain and some opposition from landowners.

23. Mr. Moore testified that the Applicant had acquired access for approximately nine miles of the pipeline and that the next steps would include additional permitting and undertaking the logistics of construction.

24. Mr. Thum testified that based on his review of the Petitions and the testimony given by Mr. Smith and Mr. Moore, he did not have certainty regarding the time frame required to complete the work described by Applicant.

25. Mr. Thum also testified that it would be preferable to obtain more than thirty-days of production from any well Applicant drilled, in order to establish data sufficient to support establishing a spacing unit.

III. CONCLUSIONS OF LAW

1. The Idaho Oil and Gas Conservation Act (“Act”) applies to all matters affecting oil and gas development on all lands located in the state of Idaho. Idaho Code § 47-313.

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

3. Under Idaho law, the Oil and Gas Conservation Commission (“Commission”) is “authorized to make and enforce rules, regulations, and orders reasonably necessary to prevent waste, protect correlative rights, to govern the practice and procedure before the commission, and otherwise to administer [the Act].” Idaho Code § 47-315(8). IDL is the administrative instrumentality of the Commission and the Administrator of IDL has authority over these proceedings pursuant to Idaho Code §§ 47-318, 47-320, and 47-328(3).

4. Idaho law requires that “[a]n order establishing spacing units shall specify the size, shape, and location of the units . . . [that] will, in the opinion of [IDL], result in the efficient and economical development of the pool as a whole.” Idaho Code § 47-318(2).

5. Under Idaho law, “[i]f at the time of a hearing to establish spacing units, there is not sufficient evidence to determine the area that can be efficiently and economically drained by one (1) well, the department may make an order establishing temporary spacing units for the orderly development of the pool, pending the obtaining of information required to determine what the ultimate spacing should be.” Idaho Code § 47-318(2)(a).

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

7. Pursuant to the Idaho Administrative Procedures Act, a court shall affirm an agency’s action unless the decision is “not supported by substantial evidence on the record as a whole; or [the decision] is arbitrary, capricious, or an abuse of discretion.” Idaho Code § 67-5279(3)(d)-(e).

8. The Subject Lands currently are subject to temporary spacing for a period of eighteen months as set forth in Docket 004 Order and Docket 005 Order. Pursuant to those same Orders, the uncommitted mineral owners were integrated with the “express condition that said integration will be temporary for the same period of time as the temporary spacing.”

9. Under the Docket 004 Order and Docket 005 Order, during the pendency of the temporary spacing unit, the Applicant was required to establish production or other data sufficient to establish the pool’s size and location.

10. Based on evidence and testimony presented at the Hearing and in the Petitions, Applicant established the likelihood of achieving production in commercial quantities from a well or wells located on the Subject Lands.

11. Based on evidence and testimony presented at the Hearing and in the Petitions, the record reflects sufficient evidence to support an order amending and extending the time period for the temporary spacing units in Docket 004 Order and the Docket 005 Order, in furtherance of orderly development of the pool, pending the acquisition of information required to establish appropriate spacing pursuant to Idaho Code § 47-318(2)(a).

12. Based on the evidence and testimony presented at the Hearing and in the Petitions, extending the time frame of the temporary spacing and integration in the Docket 004 Order and Docket 005 Order will facilitate the orderly development of the oil and gas underlying the Subject Lands and enable Applicant to better define the target reservoirs.

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

14. Such development must precede establishing the Proposed Spacing Units as currently requested and proposed, permanently.

15. Amending the Docket 004 Order and Docket 005 Order to extend the temporary spacing units reduces the potential for waste under Idaho Code § 47-312.

16. Amending the Docket 004 Order and Docket 005 Order to provide that Applicant shall file an application to establish a permanent spacing unit by or before the last day of the seventeenth month within the additional eighteen-month temporary time frame will provide

Applicant with additional time to undertake the work necessary to pursue orderly development of the Subject Lands.

17. Based upon the evidence and testimony presented, the Administrator concludes that it is appropriate to amend the term of the integration to correspond with the extended term of the Proposed Spacing Units, with the express condition that the integration will be temporary for the same time as the temporary spacing.

18. The issue of timeliness of the response filed by Alan and Glenda Grace, dated May 28, 2018, was not a dispositive factor in determining whether to waive the Hearing.

19. Idaho law provides that if an application is uncontested, an “applicant may request, and the oil and gas administrator may allow, approval without a hearing, based on the merits of a verified application and the supporting exhibits.” Idaho Code § 47-328(3)(d). The statute does not mandate administrative review without a hearing.

20. In its Petitions, Applicant stated that it would obtain a division order title opinion for the Subject Lands covered by the Proposed Spacing Unit, including a calculation of the total royalty interest for the Spacing Unit area, before producing the well. Applicant further stated that at the time production commences, it will be prepared to escrow funds for the benefit of royalty interest owners based on the division order calculation.

21. Based on testimony and information presented, royalty interests from proceeds attributable to production from the Subject Lands shall be held in escrow, in the manner described in the Docket 004 Order and Docket 005 Order. Proceeds attributable to other interests in the Proposed Spacing Unit may be handled according to Applicant’s request, in accordance to all relevant laws.

22. Based on testimony and information presented, Applicant is the party best able to assess the type and manner of work required in order to commence production. Further, Applicant is the party best able to know the amount of time necessary to complete the work.

IV. ORDER

1. For the reasons stated above, pursuant to Idaho Code §§ 47-318 and 47-320 and based on the evidence in the record, the Administrator HEREBY GRANTS the Petition to Amend in Docket No. CC-2016-OGR-01-004 and Docket No. CC-2016-OGR-01-005 according to the terms and conditions requested by the Applicants *as modified by the terms and conditions contained herein*.

2. The temporary term of the Proposed Spacing Unit shall be extended for an additional term of eighteen months from the date of this Order (“Extended Temporary Term”).

3. By or before the last day of the seventeenth month within in the Extended Temporary Term, the Applicant shall file an Application in this matter seeking a permanent spacing unit, under Idaho Code § 47-318.

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

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

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

7. If the Applicant fails to file an Application to establish a spacing unit pursuant to Idaho Code § 47-318, the temporary unit ordered herein shall expire and all leased and unleased integrated parties within the temporary unit shall be released from the temporary unit.

8. Landowner royalty interests from proceeds attributable to production from the temporary spacing units shall be paid into an interest-bearing account administered by a third party, escrow agent, or similar fiduciary; and shall be available for release to the Applicant for payment to the appropriate party immediately upon Applicant obtaining a permanent spacing order and in compliance with Idaho Code § 47-331.

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

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

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

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

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

14. The terms and conditions of the Docket 004 Order and Docket 005 Order that do not conflict with the terms set forth herein, remain in force and effect.

V. PROCEDURES & REVIEW

Pursuant to Idaho Code § 47-328(3)(e) the above-captioned order shall not be subject to any motion to reconsider or further review, except for appeal to the Idaho Oil and Gas Conservation Commission. Pursuant to Idaho Code § 47-328(4), this order may be appealed to the Commission by the applicant or any owner who filed an objection or other response to the application within the time required. An appeal must be filed with the Administrator within fourteen (14) calendar days of the date of issuance of the Administrator's written decision. The date of issuance shall be July 19, 2018, which is three (3) calendar days after the Administrator deposits the decision in the U.S. mail. Such appeal shall include the reasons and authority for the appeal and shall identify any facts in the record supporting the appeal. Any person appealing shall serve a copy of the appeal materials on any other person who participated in the proceedings below, by certified mail, or by personal service. Any person who participated in the proceeding below may file a response to the appeal within five (5) business days of service of a copy of the appeal materials. The appellant shall provide the Administrator with proof of service of the appeal materials on other persons.

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

DATED this 16 day of July, 2018



Mick Thomas, Division Administrator
Secretary to the Commission

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July 2018, I caused to be served a true and correct copy of the following items in Docket No: CC-2016-OGR-01-005: *Findings of Fact, Conclusions of Law and Order*, by the method indicated below and addressed to the following:

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