

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION
STATE OF IDAHO**

Randy and Thana Kauffman, <i>Complainants,</i>)	
)	Docket No. CC-2017-OGR-01-002
v.)	
)	BRIEF OF RESPONDENTS IN
AM Idaho, LLC, and Alta Mesa Services, LP,)	RESPONSE TO COMPLAINANTS'
<i>Respondents.</i>)	EXCEPTIONS TO
)	RECOMMENDED ORDER
)	

Pursuant to the Hearing Officer’s Recommended Order dated November 13, Respondents submit this response to the Complainants’ November 16, 2018 email entitled “Written Brief Taking Exception to the Recommended Order by Jason Risch, Hearing Officer Docket No. CC-2017-OGR-01-002.”

For the reasons already set forth in the Brief of Respondents Re: Recommended Order dated October 5, 2018, Respondents respectfully submit that the November 16, 2018 email does not provide any valid objection to the Recommended Order.

In addition, as Respondents have previously pointed out, Idaho Code §47-332(4) provides only for select categories of records of an operator to be “made available” to a royalty interest owner, not delivered without restriction. *See U.S. v. Baroid Corp.*, 346 F.Supp.2d 138, 143 (D.D.C. 2004) (“‘To make available’ does not include the obligation to deliver or process.”); *Wang v. Kidder, Mathews & Segner, Inc.*, Case No. 62034-7-1 (Wa. Ct. App. Div. I 2010) (“‘[M]ake available’ means only that the subject matter is accessible or attainable [while] ‘deliver’ means delivery or physical transfer of possession.”). Even if Complainants had not failed to present any factual support for their Complaint, the relief they apparently seek would

not be appropriate, and Respondents complied with their statutory obligation by making the relevant records available to Complainants for review. Complainants rejected that opportunity.

Dated this 5th day of December, 2018.




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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2018, I caused to be served a true and correct copy of the foregoing **BRIEF OF RESPONDENTS IN RESPONSE TO COMPLAINANTS' EXCEPTIONS TO RECOMMENDED ORDER** in the above-referenced matter by the method indicated below, and addressed to the following:

Randy and Thana Kauffman
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HAND DELIVER
 U.S. MAIL
 OVERNIGHT MAIL
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 :(208) ___ - ___
 E-MAIL:


Mick Thomas
Secretary for the Commission and
Division Administrator
Idaho Department of Lands
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