

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application of Cascade Exploration, LLC for an Order establishing a Spacing Unit consisting of 239.15 net acres on lands situated in Section 25, Township 5 North, Range 4 West, Canyon County Idaho.) AGENCY Case No. CC-2025-OGR-01-003
) OAH Case No. 25-320-OG-02
) **FINDINGS OF FACT, CONCLUSIONS**
) **OF LAW, AND RECOMMENDED**
) **ORDER**

Cascade Exploration, LLC (Cascade) filed an application on June 30, 2025, requesting a spacing order for a proposed 239.15-acre unit situated in Section 25, Township 5 North, Range 4 West, Canyon County, Idaho (hereinafter “Proposed Spacing Unit”).

On July 8, 2025, James Thum, the Idaho Department of Lands’ (IDL) Oil & Gas Program Manager, responded to Cascade’s application, requesting additional information. Final Order Referring Matter to the Office of Administrative Hearings, dated July 11, 2025 (Final Order), Ex. 2. The Final Order referred Cascade’s application to the Office of Administrative Hearings (OAH) to conduct a public hearing and issue a recommended order.

OAH appointed Administrative Law Judge Scott Zanzig as the hearing officer for the case on July 14, 2025. That same day, Hearing Officer Zanzig issued a Notice of Scheduling Conference that set a scheduling conference for July 22, 2025, at 1:30 p.m. on Zoom.

On July 22, 2025, the Hearing Officer held a Zoom scheduling conference. Representatives from Cascade and IDL participated. Following the scheduling conference, the Hearing Officer issued a Scheduling Order setting prehearing deadlines and scheduling the public hearing on Cascade’s application for August 28, 2025.

The Hearing Officer conducted a prehearing conference via Zoom on August 21, 2025. Representatives from Cascade and IDL participated. The parties stipulated to the admission of all

exhibits offered: Cascade's Exhibits CE-01 through CE-03, and IDL's Exhibits IDL-01 and IDL-02.

The Hearing Officer held the public hearing at the College of Western Idaho's Nampa Micron Education Center, Room 139A, located at 5725 E. Franklin Road, Nampa, ID 83687, beginning at 1:30 p.m. on August 28, 2025. The hearing was recorded via Zoom; by the parties' agreement, no court reporter attended to transcribe the proceedings. Andrew Irvine represented Cascade at the hearing. Barrett Bronson and Heather Bader provided testimony for Cascade. Deputy Attorney General Kayleen Richter represented IDL, and James Thum provided testimony. No uncommitted mineral interest owners or members of the public appeared at the hearing.

The parties participating in the hearing were given the opportunity to present testimony and evidence and cross-examine witnesses. Cascade had the opportunity to offer rebuttal testimony. Interested persons had the opportunity to present testimony as public witnesses at the hearing beginning at 5:00 p.m., pursuant to Idaho Code section 67-5242(3)(c). No interested members of the public appeared, and the hearing concluded at 5:30 p.m. No written public comments were received prior to the hearing.

After hearing IDL's concerns at the public hearing, Cascade agreed to several conditions IDL proposed. The parties submitted a joint stipulation adopting those conditions on September 4, 2025. At that point, the record was closed, so the Administrator's final decision is due October 6, 2025.¹

Based on the administrative record and the evidence submitted in connection with the hearing, the Hearing Officer makes the following findings of fact and conclusions of law under IDAPA 62.01.01.252.d.

¹ The 30-day deadline for a decision in Idaho Code section 47-328(3)(e) falls on October 4, 2025, a Saturday. Under Idaho Code section 34-116, that deadline is extended to the next business day, October 6, 2025.

FINDINGS OF FACT

1. On June 30, 2025, Cascade filed its application for a 239.15-acre spacing unit located in Section 25, Township 5 North, Range 4 West, Canyon County, Idaho, for a stratigraphic test well (Cascade's Application). CE-01; Final Order, Ex. 1.

2. Cascade's Application included: a legal description of the Proposed Spacing Unit; a plat map of the Proposed Spacing Unit; a list of mineral interest owners in the Proposed Spacing Unit; a declaration from Bronson Barrett describing Cascade's ownership interest in the Proposed Spacing Unit; and a declaration from a drilling engineer, Heather Bader, describing Cascade's plan for a stratigraphic test well in the Proposed Spacing Unit. *Id.*

3. On July 8, 2025, James Thum, IDL's Oil & Gas Program Manager, responded to Cascade's Application, requesting additional information. Final Order, Ex. 2.

4. Marchbanks Properties is the fee simple owner of all 239.15 acres comprising the Proposed Spacing Unit. CE-01, Ex. C; CE-01 (Declaration of Bronson Barrett); Hearing Recording (HR)² 00:09:59–00:10:20.

5. As a result of a lease with Marchbanks Properties, Cascade is the sole working mineral interest owner in all 239.15 acres comprising the Proposed Spacing Unit. *See id.* *See also* HR 00:10:08–00:10:43.

6. There are no uncommitted owners within the Proposed Spacing Unit. HR 00:12:13–00:12:26.

7. On July 8, 2025, Cascade sent Canyon County a copy of Cascade's Application by certified mail. CE-02; HR 00:11:58–00:12:12.

² "Hearing Recording" refers to the time reflected on the Zoom recording of the evidentiary portion of the hearing.

8. No objections were filed in opposition to Cascade's Application, and IDL received no written public comments regarding Cascade's Application. HR 00:12:27–00:12:47; 00:53:08–00:53:34.

9. Following the public hearing, on September 4, 2025, Cascade and IDL filed a Joint Stipulation to Conditions for Grant of Cascade Exploration's Application. The stipulation provides:

At the in-person evidentiary hearing in this matter on August 28, 2025, IDL recommended that Cascade Exploration's application for an Order establishing a spacing unit in Section 25, Township 5 North, Range 4 West, Canyon County, Idaho, be granted with conditions. The parties hereby stipulate the conditions, as follows, for grant of Cascade Exploration's application:

1. The order approving the spacing unit shall allow for only one well within the unit.

2. The spacing unit shall consist of a ninety-acre unit at S2SE1/4, SWSWNE, W2NWSE, NESW in Section 25, Township 5 North, Range 4 West, Canyon County, Idaho, as further described at Exhibit A hereto. Setbacks shall be 330 feet from the closest exterior geographic boundary of the unit as described in IC 47-317(3)(a)(i).

3. Beyond well testing as allowed in IDAPA 20.07.02.413, no production activities will be permitted from the stratigraphic test well.

4. The spacing unit will expire 90 days after final plugging and reclamation has been completed, inspected, and approved by IDL.

With these conditions, Cascade Exploration's application, declarations, and exhibits, and the parties' testimony from the evidentiary hearing, the parties submit that Cascade Exploration has complied with the statutory and regulatory requirements and that the stipulated spacing unit is appropriate. Cascade Exploration therefore requests, and IDL therefore recommends, that Cascade Exploration's application be granted and that an Order establishing the stipulated spacing unit be issued.

10. Exhibit A to the stipulation depicting the reduced-sized proposed spacing unit is attached to and incorporated in this recommended order.

11. Testimony at the public hearing established the following:

- a. Cascade's Application seeks permission to test for hydrogen gas. HR 00:05:47–00:06:56.
- b. Cascade's Application seeks approval of a spacing unit for exploratory testing only. Its stratigraphic test well will neither produce nor waste oil or gas. CE-01 (Cascade Resources, LLC Drilling Engineer Technical Declaration in Support of Application); HR 00:15:39–00:16:30.
- c. Drilling a stratigraphic test well is an accepted method used in the oil and gas industry to determine the existence and extent of a prospective pool of gas. HR 00:33:21–00:33:41.
- d. Information from a stratigraphic test well could be used to prevent the waste of resource and to protect correlative rights. HR 00:33:42–00:33:52.
- e. James Thum is a trained geologist and geophysicist with more than 30 years' experience in oil and gas exploration and development. He has served as IDL's Oil and Gas Program Manager since January 2016. HR 00:30:05–00:30:45.
- f. In Mr. Thum's opinion, Cascade's Application satisfies the Act's requirements, except for the irregular shape of the Proposed Spacing Unit originally proposed (because the unit could not be described in accordance with the public land survey system). HR 00:44:25–00:45:54.

12. The parties' Joint Stipulation to Conditions for Grant of Cascade Exploration's Application remedies Mr. Thum's concern that Cascade's Application proposed a unit that could not be described in accordance with the public land survey system.

13. IDL has thoroughly vetted Cascade's Application, proposed and received

Cascade's assent to several conditions, and recommends Cascade's Application be granted subject to the stipulated conditions.

14. No other person or entity has opposed Cascade's Application.

CONCLUSIONS OF LAW

A. The Hearing Officer has jurisdiction over this matter.

1. The Idaho Oil and Gas Conservation Act (Chapter 3, title 47, Idaho Code) (the Act) applies to all matters affecting oil and gas development on all lands located in the state of Idaho. I.C. § 47-313.

2. The Act and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho (IDAPA 20.07.02) govern this proceeding for the following reasons.

3. Cascade seeks permission to drill an exploratory well for hydrogen gas. Pure hydrogen production may not be within the scope of the Act. The Act gives IDL the authority to establish spacing units "for oil and gas wells." I.C. § 47-317(1). While hydrogen is a "gas" as that term is generally defined, the Act defines "gas" more restrictively:

"Gas" means natural gas, which is a mixture of hydrocarbons and varying quantities of non-hydrocarbons that exist either in the gaseous phase or in solution with crude oil in natural underground reservoirs.

I.C. § 47-310(14). Hydrogen is not "natural gas" as that term is defined by the Act, because it is not a "hydrocarbon."

4. Nevertheless, both Cascade and IDL assert that the Act should apply to exploratory drilling for hydrogen. Perhaps that is because Cascade's proposed spacing unit is limited to exploratory drilling, and that exploration may encounter "natural gas" as well as hydrogen. Or perhaps that is because some or all of the hydrogen gas Cascade's exploration discovers may be mixed with some amount of "natural gas." There is insufficient evidence to support a finding of

fact that either of these possibilities is true. But because both Cascade and IDL contend that the Act applies to Cascade's Application, and because no other person or entity offered objection or comment to the contrary, the Hearing Officer concludes that the Act and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho govern Cascade's Application.

5. The Idaho 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]." I.C. § 47-315(8). IDL is the administrative instrumentality of the Commission, and the Oil and Gas Administrator has authority over these proceedings pursuant to Idaho Code sections 47-314(7), -317, and -328(3).

6. The Administrator is authorized to conduct this hearing and appoint a hearing officer pursuant to Idaho Code sections 47-317 and -328 for the purpose of conducting hearings.

7. OAH is authorized to conduct the hearing with its Hearing Officer pursuant to Idaho Code section 67-5280(2)(b) as a requested hearing by the agency.

B. Cascade bears the burden of proof.

1. The applicant, Cascade, bears the burden of proof in this matter because it is requesting a spacing order from IDL. IDAPA 62.01.01.477.

2. Under Idaho law, "preponderance of the evidence" is generally the applicable standard for administrative proceedings, unless the Idaho Supreme Court or legislature has said otherwise. *N. Frontiers, Inc. v. State ex rel. Cade*, 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). "A preponderance of the evidence means that when weighing all of the evidence in the record, the evidence on which the finder of fact relies is more probably true than not." *Oxley v. Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481 80 P.3d 1077, 1082 (2003).

3. 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. I.C. § 67-5279(3)(d)-(e).

C. Cascade provided adequate notice.

1. Idaho Code section 47-328(3)(b) sets forth the applicable notice requirements. Section 47-328(3)(b) requires that the applicant give notice to "all known and located uncommitted mineral interest owners, all working interest owners within the proposed spacing unit, and the respective city or county where the proposed unit is located." Cascade has satisfied these requirements. There are no uncommitted or working interest owners other than Cascade within the Proposed Spacing Unit; and Cascade notified Canyon County about its application.

2. Although Cascade has amended the dimensions and reduced the size of the Proposed Spacing Unit through its stipulation with IDL, the amended spacing unit is entirely within the contours of the original Proposed Spacing Unit and the unit will be limited to exploratory drilling, with no production. Therefore, no mineral interest owners will be affected by the reduced size.

D. The proposed spacing unit, as amended by the stipulated conditions, should be established as a spacing unit under Idaho Code sections 47-317(1) and (2).

1. Idaho Code section 47-317(1) grants IDL the power to "issue an order establishing spacing units on a statewide basis, or for defined areas within the state, or for oil and gas wells drilled to varying depths," "to prevent or assist in preventing the waste of oil and gas, to avoid drilling unnecessary wells or to protect correlative rights."

2. Section 47-317(2) provides that:

- a. a spacing unit order “shall specify the location, size, and shape of the unit, which, in the opinion of [IDL], shall result in the efficient and economical development of the pool as a whole”;
- b. spacing “units established by [IDL] shall be geographic. The geographic boundary of the unit shall be described in accordance with the public land survey system”; and
- c. “[IDL] shall issue an order establishing a spacing unit or units to determine the area that can be efficiently and economically drained by one (1) well for the orderly development of the pool.”

3. As described below, Cascade’s Proposed Spacing Unit, as amended by the stipulated conditions, satisfies section 47-317’s requirements.

4. James Thum is an experienced oil and gas engineer who has overseen IDL’s administration of the Act for nearly a decade. His testimony that Cascade’s Application, as amended by the conditions IDL proposed, meets the statutory criteria, carries great weight. Unsurprisingly, Mr. Thum’s opinion is fully supported by the evidence.

5. An order in this case would “specify the location, size, and shape of the unit, which, in the opinion of [IDL], shall result in the efficient and economical development of the pool [if any] as a whole.” That is because the spacing unit will be used solely for exploratory purposes. The information from the stratigraphic test well would assist IDL in assessing any subsequent spacing unit application for production, and help IDL ensure that any production from the site would be “efficient and economical.”

6. Cascade’s Proposed Spacing Unit, as amended by the stipulated conditions, is now “described in accordance with the public land survey system.”

7. Finally, Cascade's Proposed Spacing Unit, as amended by the stipulated conditions, will assist IDL in "determin[ing] the area that can be efficiently and economically drained by one (1) well for the orderly development of the pool, [if any]." Again, that is because the spacing unit will be used solely for exploratory purposes and the information from the stratigraphic test well would assist IDL in assessing any subsequent spacing unit application for production to ensure efficient and economical development of any pool discovered by Cascade's testing.

8. Cascade has satisfied its burden of proving that its application for a Proposed Spacing Unit, as amended by the stipulated conditions, satisfies the requirements of the Act and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho (IDAPA 20.07.02).

9. Therefore, Cascade's Application should be granted, subject to the stipulated conditions.

RECOMMENDED ORDER

Based on the foregoing findings of fact and conclusions of law, pursuant to Idaho Code sections 47-317 and -328, the Hearing Officer recommends that the Proposed Spacing Unit in Docket No. CC-2025-OGR-01-003, OAH Case No. 25-320-OG-02, be **GRANTED** according to the terms and conditions requested by the applicant, Cascade Exploration, LLC, as modified by the following stipulated conditions:

1. The order approving the spacing unit shall allow for only one well within the unit.
2. The spacing unit shall consist of a ninety-acre unit at S2SE¹/₄SW¹/₄, SWSWNE, W2NWSE, NESW in Section 25, Township 5 North, Range 4 West, Canyon County, Idaho, as further described at Exhibit A hereto. Setbacks shall be 330 feet from the closest exterior geographic boundary of the unit as

described in IC 47-317(3)(a)(i).

3. Beyond well testing as allowed in IDAPA 20.07.02.413, no production activities will be permitted from the stratigraphic test well.
4. The spacing unit will expire 90 days after final plugging and reclamation has been completed, inspected, and approved by IDL.

RECOMMENDED ORDER NOTICE

This is a recommended order of the hearing officer. It will not become final without action of the Administrator. By law, the Administrator must issue a final order within 30 days of the close of the evidentiary portion in this case, *see* I.C. § 47-328, which occurred on September 4, 2025, when Cascade and IDL filed their Joint Stipulation to Conditions for Grant of Cascade Exploration's Application. The Administrator's final order in this case **must be issued by October 6, 2025.**

Pursuant to Idaho Code section 47-328(3)(e) "[t]he [A]dministrator's decision shall not be subject to any motion for reconsideration or further review, except for appeal to the commission[.]"

IT IS SO ORDERED.

DATED: September 17, 2025.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ W. Scott Zanzig

W. Scott Zanzig

Lead Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2025, I caused to be served a true and correct copy of the foregoing by the following method to:

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Elaine Maneck, Deputy Clerk
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Exhibit A

(to Joint Stipulation to Conditions for Grant of Cascade Exploration's Application)

EXHIBIT A

Spacing Unit: S2SENW, SWSWNE, W2NWSE, NESW in Section 25, T5N, R4W, Canyon County, Idaho.

