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BEFORE THE IDAHO DEPARTMENT OF LANDS	
In the matter of the Application of Snake River Oil and Gas, LLC for an Order Integrating Uncommitted Owners in a Spacing Unit Consisting of the SE ¼ of Section 15, the E ½ of the SW ¼ of Section 15, and the NE ¼ of Section 22, Township 8 North, Range 5West, Payette County, Idaho	Agency Case No. CC-2025-OGR-01-005 APPEAL OF ADMINISTRATOR'S ORDER OF INTEGRATION

COME NOW objecting, non-consenting owners and appeal the decision of the Administrator to approve the Integration as requested.

INTRODUCTION AND PROCEDURAL BACKGROUND

In case number CC-2025-OGR- 01-02, Snake River Oil and Gas ("SROG") sought a spacing unit of 400 acres of property straddling the border of the City of Fruitland and unincorporated Payette County. The spacing unit was subsequently ordered in that case. SROG then filed the current application seeking integration of mineral interests in that same spacing unit. SROG's application included exhibits allegedly mapping the leased and unleased owners, as well as listing them all and their status vis-à-vis leasing their mineral rights to SROG, in addition to information seeking to satisfy each of the application requirements set by law.

The procedure for assessing the application was assigned to the Office of Administrative Hearings, set for an evidentiary hearing, and such hearing as well as a public hearing and comment period were held from December 17 to December 24, 2025. The Hearing Officer issued a recommended order, which the Administrator adopted without changes. The order was served on January 28, 2026. Appeals are to be filed within 14 days, such period to commence three days after service. As that date was February 14, 2026, a Saturday, the time to appeal ran until the following Monday, February 16, 2026, which was a state and national holiday (President's Day), making the appeal deadline February 17, 2026.

BASES FOR APPEAL

1. **The Administrator's Order Failed to Apply the Proper Burden of Proof in Contravention of Statute, Rules and Prior Decisions of the IOGCC.**

While the Hearing Officer and the Administrator made mention of burdens of proof, such burdens were entirely misapplied in this case. Instead of requiring the Applicant to prove the facts that allegedly supported their application, the Hearing Officer and the Administrator required Objecting Owners to DISPROVE the adequacy of the application. When Objecting Owners were unable to DISPROVE the adequacy of the application, it was granted, despite a failure by the application to carry its burden of proof. This was in contravention of the relevant statute, IDAPA rules, and was even contrary to the Hearing Officer's own decision.

Both the Hearing Officer and Administrator gave lip service to the relevant burden of proof. The Hearing Officer, for instance, included a "conclusion of law" that "The Applicant, SROG, bears the burden of proof in this matter because it is requesting an integration order from IDL." (Findings, Conclusions and Proposed Order, p. 10).

SROG was required, in order for its application to be granted, to prove by a preponderance of the evidence, that it had complied with and met each and every one of the

standards required for entry of an integration order. It failed to do so, and the Hearing Officer and Administrator failed to require actual evidence of compliance, despite imposing undue evidentiary burdens on the parties opposing integration (parties who had no burden of proof, whatsoever).

During the hearing and the public comment periods SROG was obligated to prove that it had (1) mineral leases covering at least 55% of the acres in the spacing unit; (2) that it had attempted to negotiate in good faith with all non-consenting owners; and (3) that it had provided adequate notice of the attempted to integration to all non-consenting owners, regardless of their status as parties to this dispute. I.C. §47-320(4) and (6). The evidence presented by SROG, especially in light of other information that was in the Hearing Officer's possession at the time of the decision, did not prove that any of these three required facts was more likely true than false.

SROG presented the affidavit and testimony of Richard Brown as the ONLY evidence that it had obtained participation of more than 55% of the acres in the spacing unit. (Findings Conclusions and Recommended Order, para. 15, pp. 6-7). The Hearing Officer chose to entirely ignore the evidence presented by the City of Fuirtland, claiming it was hearsay, while relying on the incomplete and hearsay statements of Richard Brown.

Richard Brown's affidavit in this regard consists of conclusory statements of likely hearsay with no evidentiary support to prove their truth. The only evidence about ownership of the parcels making up the spacing unit is the following statement from Brown:

> Snake River has support from more than fifty-five percent (55.0%) of the mineral interest acres in the subject spacing unit (specifically, approximately 61.10%, as reflected on the plat map attached to the Application as Exhibit A and the tract list attached to the Application as Snake River is an "owner" for purposes of Idaho Code § 47-320(a) and § 47-310(23) by virtue of its status as mineral lessee within the spacing unit."

(Affidavit of Brown, Hearing Ex. 1, para. 3, p. SR-060).

This statement entirely fails to validate, authenticate, or otherwise demonstrate that the list of mineral owners in SROG's spreadsheet are THE ACTUAL OWNERS OF THE PLOTS. That fact is simply ignored. For instance, Brown did not indicate in his testimony or in his affidavit that he had looked up the owners himself; he does not explain how those ownership statuses were determined, he does not testify that the list of mineral owners was accurate, official, valid, or based on anything other than his own unsubstantiated opinion of who owned what. It is not even hearsay, these are conclusory statements with absolutely no facts to back them up, not even out of court statements.

Because Brown did not do the work of looking up ownership, or contacting all of the owners by himself, as he freely admitted in paragraph 6.a. of his affidavit, his comments about contacting owners consisted of entirely unsupported hearsay because it necessarily relied on statements by individuals who did not testify at hearing, including Travis Boney, Butch Clancy, Chris Matthews, and Rodney May whose work Brown relies on and presents solely as hearsay. (SROG Ex. 1, Brown Affidavit, para. 6.a., p. SR-061).

By contrast, when objecting owners submitted evidence both during public comment periods, in briefs to the Hearing Officer, and even when Highway District Nop. 1 clearly stated that it was not the owner of certain tracts in an effort to keep this Commission from making a major mistake, the Hearing Officer imposed a burden of proof on objectors that exists nowhere in the law. While accepting hearsay and conclusory statements entirely devoid of factual support from SROG, objecting owners, and even public agencies were told either that their position was invalid because "the City of Fruitland does not have objector status," and so anything it might say "does not constitute substantive evidence" (Findings, Conclusions and Recommended Order, p. 4), or that unlike Brown's almost entirely hearsay affidavit, the public records about property

ownership are "hearsay unsupported by" evidence and htus cannot even be considered. (Findings, Conclusions and Recommended Order, p. 17). The double standard is appalling.

The Administrator did not just misapply the burden of proof, they literally ignored relevant law from the state of Idaho. The Highway District was absolutely prohibited, as a matter of statutory law, from leasing mineral rights to SROG without the consent of the City of Fruitland. Yet, the Administrator ignored that law, and treated this as a purely evidentiary issue. The leases to Highway District 1 were illegal pursuant to Idaho Code §40-1309 and 1310. So, regardless of the quality of the evidence, the Administrator and Hearing Officer both relied on what was known at the time to be an illegal lease of mineral rights in order to decide that SROG's burden of proof was met.

The Hearing Officer, the Administrator, and now this Commission are all quite aware that the application in this case was supported by affidavits and sworn testimony which are in direct conflict with the public statements of the City of Fruitland and Highway District No. 1, as well as in direct conflict with the laws of the state of Idaho which expressly state that Highway District's cannot do what SROG claims this one did. To approve this application on this record constitutes putting legal procedure above and beyond the reach of the actual known facts, and above and beyond the laws of the State of Idaho. The Commission should not tolerate this, as the courts are unlikely to do so.

2. SROG Did not Meet Its Burden of Proof as to Its Efforts to Negotiate in Good Faith as Required by Statute.

The Administrator, via the Hearing Officer, must make the determination whether SROG has met its burden of proof on each requirement for an application to integrate. The Hearing Officer is justified in focusing primarily on those elements as to which claims or arguments have been raised by the parties other than applicant, while recognizing that it is ultimately the duty of the

Idaho Department of Lands, acting through its agents, to determine if the application is adequately supported.

The maps offered by SROG failed to include at least one parcel of land that is obviously within the spacing unit. Parcel F00000220770 is identified in Payette County's Public Land Surveying System as being .19 acre that is owned by the City of Fruitland. See, https://id-payette.publicaccessnow.com/Assessor/PropertySearch/Detail.aspx?p=F00000220770&a=348, accessed on December 31, 2025. The Public Land Surveying System and data is accessible to the public and to SROG via the Payette County website and its mapping services that list all parcels in the county of Payette. Parcel F00000220770 is not identified in either SROG's maps or its resume of efforts, though it clearly exists, is recorded in the Payette County system and its existence should have been known to SROG. The failure to even mention this plot of land is justified solely by the Administrator's determination that they would not even consider the evidence of this failure because while SROG offered NO evidence about this tract which is clearly identified in the public record as within the spacing unit, the evidence presented by others was rejected as "hearsay." (See, Findings, Conclusions and Recommended Order, p. 17; and Order of Integration). Again, the bare favoritism that accepts the gross hearsay from Richard Brown who did not personally research any of the property records is accepted, but the attempt to actually rely on data published by Payette County is rejected on evidentiary grounds.[1]

SROG also includes in its Exhibits references to a lease of 21.374 acres of mineral rights from Highway District No. 1. The City of Fruitland provided public comment pointing out that

[1] Even worse, the hearsay rule arises from the Rules of Evidence which are not even somewhat applicable in this setting. Thus the Hearing Officer allows hearsay when he likes it, rejects it when he does not like it, and does both without any reference whatsoever to a rule of statement of law that actually applies to an integration application hearing. It is intentional discrimination in favor of integration regardless of the facts.

both parcel F00000220770 and the 21.374 acres actually belong to the City rather than Highway District No. 1. Highway District No. 1 submitted a written statement that it agreed with Fruitland's position that the City not the District had the power to lease the minerals underlying these plots. SROG offered no contradictory evidence, nor did it offer any evidence whatsoever on how it went about determining ownership of these plots.

Faced with no evidence at all about ownership from SROG, but contradicting evidence consisting of the statements of the Fruitland City Manager, and the Clerk of Highway District No. 1, as well as citation by the objecting owners to multiple public records which clearly identify ownership, the Hearing Officer and the Administrator chose to stick with no evidence because they did not like some undefined characteristic of the evidence in opposition. This act flips the burden of proof from SROG to the objectors as noted above. But it also proves that SROG did not bargain in good faith with all non-consenting owners prior to applying for integration.

Idaho Code §47-320(6) requires that if an operator has less than 67% of a spacing unit leased, then it must prove that "the operator has negotiated diligently and in good faith for a period of at least one hundred twenty days prior to his application." Because SROG, even by its own incorrect calculations, had leased less than 67% of the mineral acres in this spacing unit, it was obligated toi rpove that it engaged in good faith negotiations for a period of 120 days with the owners of the non-leased property. SROG proved that it negotiated with Highway District No. 1 (and apparently lied to them about the District's ownership of 21.374 acres). But as District No. 1 and the City of Fruitland both make clear, the City owns those acres. Negotiating with Highway Distreict No. 1 did not satisfy the obligation to negotiate with the owners of those acres, precisely because SROG never provided any evidence whatsoever that Highway District

No. 1 owned those acres. So SROG proved only that it negotiated with a party it randomly thought was the owner, not that it negotiated with the actual owners who, as a matter of law would have had to include City of Fruitland. Thus, SROG failed to prove it satisfied the requirements §47-320(6). Despite the lack of evidence, the Hearing Officer and Administrator still approved the application in violation of law.

3. **The Order Imposes Unnecessary, Inappropriate, and Excessive Costs on Non-Consenting Owners.**

Richard Brown, who operates SROG and is its primary owner testified in support of the application for integration. Mr. Brown testified that SROG intends to operate the proposed well, including securing drilling services, evaluating well output, and, assuming the well produces, arranging for shipment and marketing of the hydrocarbons recovered. Mr. Brown testified that SROG does not need and would not utilize the right to trespass upon the surface estate of integrated owners during operation of the well. No other witness offered contradictory testimony or evidence. Brown's testimony was unequivocal in this regard.

Mr. Brown likewise testified that SROG, as operator of the well, will not need and would not utilize any right to trespass or otherwise traverse through the subsurface estate of any integrated owner with the exception of Tracts #110 and/or 105. As to those unleased tracts, SROG's intended well would cross into the subsurface estates of Tracts 105 and/or 110 to arrive at its intended intersection with the identified pool of hydrocarbons. The owners of Tracts 105 and 110 have not entered into any use agreement or mineral lease with SROG or any of its predecessors. Furthermore, Mr. Brown testified that due to the nature of the geology and the resource they intended to target, that there would be no need for hydraulic fracturing of the well or surrounding geologic structure.

Despite this testimony, the Administrator imposed on non-consenting owners an additional set of duties, obligations and expenses that were entirely unnecessary and thus are contrary to the statute. When a state uses its legal power to compel the relinquishment of property held by one citizen to the control of another citizen or entity, certain rights are protected by law. No property may be taken from any individual without the state providing just compensation. And no person can be deprived of their property without due process of law. U.S. Const., Am. V, XIV.

The Supreme Court of the United States has long held that "a state has constitutional power to regulate production of oil and gas so as to prevent waste and to secure equitable apportionment among landholders of the migratory gas underlying their land, fairly distributing among them the costs of production and of the apportionment." *Hunter Co. v. McHugh,* 320 U.S. 222, 227 (1943), *citing Lindsley v. Natural Carbonic Gas Co.,* 220 U.S. 61, 77 (1911); *Bandini Pentroleum Co. v. Superior Court,* 284 U.S. 8, 22 (1931); *Champling Refining Co. v. Corporation Commission*, 286 U.S. 210, 232-4 (1932); *Thompson v. Consolidated Gas Corp.*, 300 U.S. 55, 76-77; *Patterson v. Stanolind Oil & Gas Co.*, 305 U.S. 376, 379 (1939). Thus, the Court has held that statutes similar to Idaho's Oil and Gas Conservation Act are valid so long as they meet the requirement to impose only "just and reasonable" terms upon non-consenting mineral owners. "The [just and reasonable]Congressional standard prescribed by the statute coincides with that of the Constitution," and thus the Court's holding above sets out the standard of review for both Constitutional challenges (like the present one) and federal statutory challenges (not relevant here). *FPC v. Natural Gas Pipeline Co.,* 315 U.S. 575, 586 (1942)("the Congressional standard prescribed by the statute [just and reasonable] coincides with that of the Constitution").

Idaho Code similarly requires that a hearing be held to establish terms of the compelled leases that are "just and reasonable." I.C. §47-320(1). But merely reciting that terms shall be "just and reasonable" does not ensure that due process requirements are satisfied. In setting the terms of transfer where the government is establishing those terms under a requirement that they be "just and reasonable," an administrative agency must determine and then act within "a zone of reasonableness within which the [agency] is free to fix" terms as long as those terms are not "confiscatory." *FPC v. Natural Gas Pipeline Corp.,* 315 U.S. 575, 585 (1942), *citing Banton v. Belt Line Ry. Corp.,* 268 U.S. 413, 422, 423 (1925)*; Columbus Gas Co. v. Commission,* 292 U.S. 398, 414 (1934); *Denver Stock Yard Co. v. United States,* 303 U.S. 470, 483 (1938). That zone of reasonableness will be established by consideration of numerous factors including both market conditions as well as, for example avoidance of terms that are "unjust, unreasonable, unduly discriminatory, or preferential" to one party over another, *Natural Gas Pipeline Corp.,* 315 U.S. at 583.

Idaho statute reflects these same concerns. The purpose of the statute, and thus the duty of Commission, the Administrator and the Hearing Officer is to work to "protect correlative rights" of all parties. I.C. §47-315(1). That purpose is required to be met in certain ways, and the commission (and thus the Hearing Officer) are required administer the statute is such a way as to "avoid the drilling of unnecessary wells or incurring unnecessary expense," and so as to protect all mineral owners' "right to recover, receive and enjoy the benefits of oil and gas or equivalent resources while also protecting the rights of surface owners." I.C. §47-315(2).

The command of the statute is thus to use integration solely to allow production at the lowest possible expense for mineral rights owners, and to do all of that while "protecting the rights of surface owners." Id. In this case, the objecting owners are the owners of both the surface rights

and the mineral rights for their tracts. Despite the command to respect the rights of surface owners, and to impose the lowest possible expenses on non-operators, the EHaring Officer and Administrator did the exact opposite. While SROG says they will not need surface access at all, the Administrator ordered that while SROG "should" avoid use of surface lands, it may do so by forcing the property owners to engage in regulated bargaining which can result in an compelled form of lease contrary to the owners' wishes. (Integration Order, p. 13, p. 12)(. This imposes both an obligation and a cost on non-consenting owners which is entirely unnecessary, and thus barred by statute. Where surface access is not needed, as SROG says it is not needed here, it should not be permitted as doing so imposes the cost of having to monitor and then negotiate. While the cost might be small, it is entirely unnecessary and should not be required by the terms of integration.

Compelled surface access is also contrary to the U.S. Constitution since the statute makes no provision for ensuring that landowners receive just compensation, leaving them purely with limited statutory remedies that they never agreed to.

For both statutory and Constitutional reasons, surface use of the property of non-consenting owners must be struck from the integration order, and the order should be reversed and remanded for the Administrator to fix this error.

Similarly, SROG testified without contradiction or reservation, that it did not require and would not use subsurface access to the property of any mineral owners other than those including and one directly adjacent to the drill site. Yet, the Administrator granted subsurface access rights, thus transferring to SROG the rights currently owned by non-consenting owners, for no reason. While the statute requires subsurface access only "where such use cannot be reasonably avoided." I.C. §47-320(3). Richard Brown has testified it would absolutely be possible to avoid subsurface

access of the non-consenting owners' property tracts. As a result, ordering access where it was not necessary violated I.C. §47-320(3).

Such access also violates the U.S. Constitution which expressly holds that physical entry upon private property when undertaken under color of state law constitutes a taking which must be accompanied by just compensation. No such just compensation was offered. The Order violates both Idaho law's requirement that integration must be at the lowest possible cost to non-consenting owners, and that the rights of surface owners must be respected. The Order should be reversed and remanded for being in violation of the statutes and Constitution.

For all of the reasons set out above, the Administrator's Order should be vacated, and, if necessary, the matter remanded to the Administrator for additional proceedings. Any other outcome would leave the Administrator's Order subject to judicial review for lack of substantial evidence and violations of statutory requirements.

DATED this 16th day of February, 2026.

PIOTROWSKI DURAND, PLLC

/s/ James M. Piotrowski
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CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing document to be served on the parties indicated below, via electronic mail as well as certified mail, this 16th day of February, 2026.

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