

BEFORE THE IDAHO DEPARTMENT OF LANDS

**In the Matter of Application of Snake River Oil)
and Gas, LLC, to Integrate the Spacing Unit)
Consisting of the SE¼ of Section 15, the E ½ of)
the SW¼ of Section 15, and the NE ¼ of Section)
22, Township 8 North, Range 5 West, Boise)
Meridian, Payette County, Idaho)
)
SNAKE RIVER OIL AND GAS, LLC,)
Applicant.)
)
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)
_____)**

Agency Docket No. CC-2025-OGR-01-005
OAH Case No. 25-320-OG-04
APPLICANT’S RESPONSE TO APPEAL

I. INTRODUCTION.

Applicant Snake River Oil and Gas hereby responds to the appeal of the Administrator’s January 28, 2026 Order for Integration, filed by unnamed “objecting, nonconsenting owners”¹ on February 16, 2026.

On February 23, 2026, Applicant filed its Objection To and Request For Dismissal of Appeal as Untimely (“Objection”). For the reasons set forth in the Objection, it is Applicant’s position that the appeal should be dismissed summarily because it was not filed within fourteen days of the “date of issuance” of the Administrator’s order, as required by Idaho Code § 47-328(4). Applicant files this Response solely as an exercise of caution and does not waive any argument

¹ The appeal states only that it is filed on behalf of “objecting nonconsenting owners,” but does not identify which owners. Because only an owner who timely filed an objection or other response to an integration application may file an appeal (Idaho Code §47-328(4)), the reference in the appeal can only mean the owners on whose behalf Mr. Piotrowski filed an objection to the application on October 30, 2025 (Julie Fugate, Darleen Walker, Sharon Harmon, Doris Craig, Larry Morris, Charlene Gomez, and John Sandquist). See IDL Docket No. CC-2025-01-005, at <https://ogcc.idaho.gov/hearing-archives/docket-no-cc-2025-ogr-01-005/>, filing 07.

made in the Objection. The arguments and record references in this Response should be considered by the Commission only if it does not dismiss the appeal as untimely.

Even ignoring its untimeliness, the appeal can be dismissed without engaging the objecting owners' substantive arguments because it fails entirely to "identify facts in the record" supporting its allegations of error, as required by Idaho Code § 47-328(4). This failure is fatal to the appeal.

Even if the appeal were not untimely, and even if it did not otherwise fatally fail to comply with Idaho Code § 47-328(4), it would not warrant overturning the Administrator's order. The Appeal does not reference any evidence in the record rebutting that Applicant holds support by leasing from least 55% of the net mineral acres in the unit, and that it pursued leasing diligently and in good faith within the spacing unit for at least 120 days before filing the Application, and substantial evidence in the record supports those findings. None of the objecting owners are prejudiced by any dispute regarding title to acreage belonging to either the City of Fruitland or the Highway District.

Finally, the appeal misrepresents testimony in the record regarding Applicant's need for subsurface access to drill and operate a well in the unit (and does not cite to evidence in the record to support its assertions). The Commission does not have the jurisdiction to determine whether the application of the Idaho Oil and Gas Conservation Act is constitutional, but the objecting owners' argument misapprehends the nature of integration, and no taking exists.

II. ARGUMENT AND AUTHORITY.

- A. The appeal fails to identify any facts in the record supporting its assertions and must be dismissed as a result, even ignoring its untimeliness.

Idaho Code § 47-328(4) requires an appeal to "include the reasons and authority for the appeal and . . . *identify any facts in the record supporting the appeal.*" The objecting owners' appeal does not do this at all; rather, it is made up entirely of argument and unsubstantiated

allegation. The appeal makes no reference at all to documents filed in the contested case and part of the record in support of its assertions.² It makes allegations and arguments regarding testimony at the hearing (or, in the case of the City of Fruitland, after) but does not support those allegations by reference to evidence in the record. The entire record for the matter is available at <https://ogcc.idaho.gov/hearing-archives/docket-no-cc-2025-ogr-01-005/>. The recording of the December 17, 2025 hearing on the integration application is available as part of the Department’s docket listing for the matter. *Id.*, filing 050 (linking to a video at <https://www.youtube.com/watch?v=9ZQ6uABmeBQ>). It was posted on the Department’s docket listing on December 17, 2025, the same day as the hearing. Nothing prevented the objecting owners from providing references to the record in their appeal, if the appeal had not been untimely.

The Commission is required to make its decision on an appeal “based on the record as set forth in the written submittals of only the appellant and any other participating qualified person, the administrator’s decision, and any oral argument taken by the commission at an appeal hearing.” Idaho Code § 47-328(4). Failure to set forth references to the record as required makes it impossible for Commission to determine any error “based on the record as set forth in the written submittal[] of . . . the appellant,” and is thus fatal to the appeal. The Commission is not required to search the record for evidence supporting the objecting owners’ arguments. *See, e.g., Bach v. Bagley*, 148 Idaho 784, 790 229 P.3d 1146 (2010) (appellate court “will not search the record on appeal for error”). Because the appeal entirely fails to comply with the requirement of Idaho Code § 47-328(4), it must be dismissed.

² At some points, the appeal does cite to testimony or evidence presented by Applicant in support of its Application, but only to argue that the evidence is not sufficient or should not be believed. It cites to no evidence directly in support of its assertions.

- B. The appeal does not rebut substantial evidence in the record that: (a) Applicant holds at least 55% of the net acres in the spacing unit by lease; (b) Applicant diligently and in good faith sought to lease owners in the spacing unit for at least 120 days before filing the Application; and (c) Applicant may require subsurface access through integrated tracts to remove produced hydrocarbons from the spacing unit.

Even if the fatal defects in the appeal that require its summary dismissal are ignored, the appeal does not warrant granting any relief. It is difficult to respond to the appeal because it does not cite evidence in the record in support of its arguments. However, the objecting owners' main argument appears to be that, because of a dispute over title as between the City of Fruitland and Highway District No. 1 as to certain parcels in the unit, Applicant cannot prove that it holds the commitment of at least 55% of the acres in the unit by lease (so as to be entitled to an integration order under Idaho Code § 47-320(6)). They appear to base this on a late filing by the City of Fruitland. Applicant already addressed the reasons why this filing was inadmissible in its Motion to Exclude Untimely Objection by City of Fruitland, available in the record at <https://ogcc.idaho.gov/hearing-archives/docket-no-cc-2025-ogr-01-005/>, filing 062. Those reasons remain applicable here. Moreover, as the Administrator correctly found, even if the City's late filing were credited, Applicant would still hold more than 56% of the net mineral acres in the unit. *See* Order for Integration, Finding of Fact 19, at p. 4. The objecting owners provided no evidence in the record rebutting this conclusion.³

Substantial evidence exists in the record supporting the Administrator's decision. Aside from the testimony provided by Applicants' witnesses at the hearing, the Application materials

³ The objecting owners also assert that, even though Applicant admittedly attempted to negotiate for a lease with both the City of Fruitland (which refused to lease at all – *see* Ex. SR-05, p. SR-282) and the Highway District, it was required to prove that it negotiated as to a specific quantum of acreage as to each owner. It does not support this assertion with any authority. It is not disputed that Applicant negotiated in good faith for over 120 days – indeed, for over two years – to lease as many acres in the spacing unit as it could. *See* Ex. SR-05 (resume of efforts), Ex. SR-01, pp. SR061 – SR063 (Declaration of Richard Brown, discussing leasing effort in spacing unit of over two years), pp. SR123 – SR125 (Declaration of Wade Moore, III, discussing leasing efforts).

themselves satisfied the elements of Idaho Code §47-320(6). *See, e.g.*, Ex. SR-05 (resume of efforts and list of leases), Ex. SR-01, pp. SR061 – SR063 (Declaration of Richard Brown, discussing leasing effort in spacing unit of over two years), pp. SR123 – SR125 (Declaration of Wade Moore, III, discussing leasing efforts). The objecting owners’ appeal largely amounts to argument as to the weight to be given to evidence, but this is not the basis for error. *See* Idaho Code § 67-5279(3)(d) (agency action will be affirmed if supported by substantial evidence in the record as a whole). Evidence is substantial and competent “if a reasonable trier of fact would accept that evidence and rely on it to determine whether a disputed point of fact was proven.” *Hull v. Giesler*, 156 Idaho 765, 772, 331 P.3d 507, 514 (2014). Factual determinations may be upheld, “even where there is conflicting evidence, so long as supported by substantial and competent evidence.” *Urrutia v. Blaine County*, 134 Idaho 353, 357, 2 P.3d 738, 742 (2000).

C. The appeal does not rebut substantial evidence in the record rebutting that Applicant may need subsurface access to transport produced hydrocarbons from the spacing unit.

The objecting owners assert that Applicant’s witness, Richard Brown, “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.” Appeal, p 11. They do not support this assertion by any reference to the record. In fact, Mr. Brown testified: (a) that the wellbore will cross under at least two and possibly more tracts depending on variability of the final bottom hole location; and (b) that the planned route to the south for from the surface location for a flow line is not finally established, and Applicant very well may need to lay flow line under integrated tracts in order to transport produced hydrocarbons from the spacing unit to the nearby gathering line. *See* <https://ogcc.idaho.gov/hearing-archives/docket-no-cc-2025-ogr-01-005/>, filing 050 (recording of December 17, 2025 hearing), at

35:20 – 36:06 (well bore discussion), 36:05 – 37:25 (flow line discussion). The objecting landowners provided no reference to evidence in the record that this possibility causes them any injury. Again, substantial evidence supports the Administrator’s findings.

As to surface occupancy, the Administrator’s order simply followed the requirements of the Act. *See* Idaho Code §47-320(3)(c)(iv) (just and reasonable terms to be included in an integration order include: “The operator shall avoid, to the maximum extent possible, any use of surface lands belonging to owners integrated under this subsection. Where such use cannot be reasonably avoided, use of surface lands, and compensation for such use, shall be governed by section 47-334, Idaho Code.”). In other words, in accordance with the Act, the order already provides for determining reasonable compensation in the event an owner’s surface will be impacted because it cannot be avoided.

While the Commission does not have the authority to determine the constitutionality of the Act, the objecting owners’ arguments fundamentally misapprehend the nature of integration. Integration is a creation of the Act, and it modified the rule of capture to give mineral owners a correlative right to share in the common source of supply below their properties without having to drill their own wells. Before the Act no such right existed. A neighbor could drill a well and drain all of the hydrocarbon under surrounding properties, and the owners of those surrounding properties had no right to participate in the production from the well. The Act granted mineral owners the right of such participation, through its integration provisions. A taking does not exist where a mineral owner is granted a right by statute that is conditioned upon it being exercised in a certain manner. *See, e.g., Gawenis v. Ark. Oil and Gas. Comm’n*, 2015 Ark. 238, 464 S.W.3d 453 (2015). (“[T]he forced-integration provisions of the Arkansas Conservation Act do not “take” anything away from Gawenis. Rather, the integration order allowed Gawenis to lease his interest

in the drilling unit in exchange for compensation or to participate in the drilling of the well and receive monetary benefits.”).

III. CONCLUSION.

For the reasons set forth in Applicant’s separately filed Objection, the objecting owners’ appeal is untimely. It should be summarily dismissed without engaging with its unsupported allegations and arguments. The record references and legal authority in this reply are necessary only if the Commission does not dismiss the appeal as untimely.

Ignoring its untimeliness, the appeal entirely fails to present facts in the record upon which any finding of error may be based, and should be summarily dismissed for that reason. Finally, even ignoring these failures, substantial evidence in the record supports the Administrator’s decision. If the Commission does not dismiss it as untimely, the appeal should be denied in any event.

DATED this 26th day of February, 2026.

HARDEE, PIÑOL & KRACKE, PLLC



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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2026, I caused to be served a true and correct copy of the foregoing by the following method to:

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