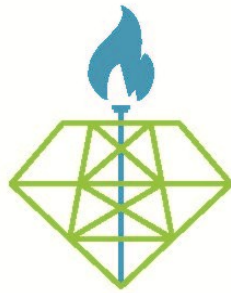




State Flower



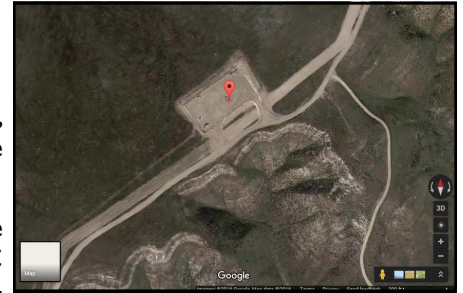
# IDAHO OIL & GAS CONSERVATION COMMISSION

Volume 3 Issue 1

First Quarter 2016

## Update on Well Activity ML Investments 1-3, ML Investments 2-3 and Udy 18-1

Right: Google Earth Shot of ML Investments #2-3 Well



Two wells, ML Investments 1-3 and ML Investments 2-3, were drilled and completed this last winter in Payette County and are in production as of March 1, 2016.

Idaho will soon have another oil and gas operator in the state. Energy Summit Resources of Vernal, Utah and CPC Minerals, LLC of Cedar Hills, Utah submitted an application for permit to drill in December of 2015. The application was posted for public comment and was approved in March of 2016. This 7000-foot well is named the Udy (pronounced you-dee) 18-1 and is located in Bonneville County, Eastern Idaho. It is tentatively scheduled to spud sometime in May of 2016.

CPC Mineral drilled a dry hole nearby in 2007. They then completed a 2-D seismic survey to better understand the local geology. The Udy 18-1 attempts to build on this prior work.

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## More Wells put into Production in Payette County

The state of Idaho now has eight producing wells, two of which are dual completions meaning they are completed in two separate zones within the well.

<u>Well Name/ Number</u>	<u>US Well Number</u>	<u>Date Production Began</u>
State 1-17	11-075-20005	1/1/2014
ML Investments 1-10	11-075-20007	8/2/2015
*ML Investments 1-11 LT	11-075-20025	8/3/2015
*ML Investments 1-11 UT	11-075-20025	8/4/2015
*Kauffman 1-9 UT	11-075-20027	8/5/2015
ML Investments 2-10	11-075-20022	8/29/2015
Kauffman 1-34	11-075-20024	10/3/2015
*Kauffman 1-9 LT	11-075-20027	2/13/2016
ML Investments 1-3	11-075-20026	2/26/2016
ML Investments 2-3	11-075-20029	3/1/2016

\* Dual Completion Wells

Of the 19 active permits in Idaho, 18 of them are in Payette County, eight of the wells are currently producing, nine wells are shut in pending a pipeline, and one is not yet drilled. The recent well permit in Bonneville County is scheduled to be drilled sometime in May of 2016.

## Welcome Oil and Gas Program Manager– James Thum

James Thum started his first day at Idaho Department of Lands on March 7, 2016 as the new Oil and Gas Program Manager. He attended the January and February OGCC meetings prior to that date. James came to us from Portland, Oregon where he ran a geophysical and energy consulting company since 2007. Prior to that, he worked as a GIS cartographer for Washington County in Oregon, and as an exploration and development geoscientist for several energy companies in Houston, Texas. He has over thirty years experience with onshore and offshore energy exploration and development projects including geothermal, coal bed methane, and underground gas storage operations. James holds a Master's Degree in Geophysics from Wright State University in Dayton, Ohio.



*“Because of the recent discovery of commercial hydrocarbons, the state of Idaho presents a unique ground-floor opportunity to help guide oil and gas development policy and procedures in a safe and efficient manner for the benefit of Idahoans. I look forward to working with an enthusiastic staff at the Idaho Department of Lands who is committed to this goal as the state joins the ranks of oil and gas producers.”-James Thum*

In his spare time, James enjoys fly fishing, rafting and boating, hiking and camping, studying western mining history, and listening to classic rock and jazz.

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### 20.07.02– Negotiated Rulemaking

At the March 17, 2016 OGCC regular meeting, the Commission gave approval for the Idaho Department of Lands Oil and Gas Program to enter negotiated rulemaking. These rules would then go before the Legislature in 2017. The draft rules were presented to the OGCC as an information item at the April 21, 2016 regular OGCC meeting.

The first meeting for rulemaking will be Wednesday, May 18, 9:00am (MDT) in the Capitol Building, Lincoln Auditorium (WW02) in Boise. This meeting will address how rules derive from statutory authority, the limitations of rules, and the main issues being addressed by this rulemaking. More information such as the notices, agendas, timeline, and draft rules will be posted on the IDL Rulemaking Website at <http://www.idl.idaho.gov/rulemaking/index.html>

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### Oil and Gas Legislation Passed- SB 1339 and HB 509

During the 2016 Idaho Legislative session, the Legislature passed two bills that effect the oil and gas program at Idaho Department of Lands (IDL) and the Idaho Oil and Gas Conservation Commission (OGCC).

**Senate Bill 1339** – This bill gives IDL the power to exercise most of the OGCC's rights, powers and duties. The OGCC still exercises general control and supervision over IDL. The OGCC's role also includes hearing appeals from the Director's application decisions as well as hearing rulemaking and complaint.

The bill also sets new timelines for processing applications which are more comparable to timelines in mature oil and gas producing states. The timeframes vary depending on the type of application. For example, IDL has fifteen days to approve or deny a permit to drill. For integration, unitization, and spacing applications, the Director will hold a hearing on the application within 30 days after a complete application is filed. The Director will issue his decision on an application 30 days after that hearing. That decision would then be subject to an appeal to the OGCC. An emergency clause made this law effective immediately when signed by the governor March 16.

**House Bill 509** –This bill expressly authorizes the OGCC to share oil and gas records with the Idaho Geological Survey (IGS). IGS is the lead state agency for the collection, interpretation, and dissemination of geologic information pertaining to oil and gas mineral resources. While some oil and gas records are statutorily exempt from public disclosure, the OGCC and IDL can provide all pertinent geological records to IGS in order to achieve each agency's respective mission. IGS must maintain the required confidentiality of the records or information. This bill will go into effect on July 1, 2016.



## Learning from other States

Idaho Oil and Gas Conservation Commissioners and Idaho Department of Lands (IDL) staff continue to reach out to learn from other, more mature oil and gas producing states. Idaho Department of Lands recently submitted our 20.07.02 Rules Governing Conservation of Oil and Natural Gas in the State of Idaho to the State Oil and Gas Regulatory Exchange (SOGRE)/ Interstate Oil and Gas Compact Commission (IOGCC) for a peer review.

Idaho is an associate member of the Interstate Oil and Gas Compact Commission (IOGCC) which is a collaboration of governors, state appointees and key policy staff that work on oil and gas issues in their respective states.

Idaho Department of Lands has been in contact with the State Oil and Gas Regulatory Exchange (SOGRE) which is an initiative of the IOGCC and also partners with the Ground Water Protection Council (GWPC). Here, we collaborate with other states with regulatory oil and gas programs to share information, opportunities and effective practices.

These efforts build on previous outreach to other states by the Commissioners and IDL staff. They have visited North Dakota and Utah, and discussed various regulatory issues with oil and gas staff in Wyoming, Montana, and Colorado.

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## Strategic Plan

The Idaho Oil and Gas Conservation Commission (OGCC) approved a strategic plan at the March 17<sup>th</sup> regular meeting. The plan was started in January 2016 in conjunction with a similar planning effort for the Idaho Department of Lands (IDL). The OGCC's strategic plan will help identify goals and priorities to ensure that IDL is operating in alignment with the OGCC as their administrative agency. IDL contracted with Association Options, who is assisting with the planning process.

The planning process began with gathering input about the OGCC concerning its mission, strengths, weaknesses, opportunities, threats, critical issues, and goals. Commissioners and some stakeholders were interviewed by Association Options, while other stakeholders were asked to complete a survey. Association Options provided results of the surveys and feedback from the interviews to Commissioner's in February. After results were shared with the Commissioner's, Association Options developed a draft Idaho Oil and Gas Conservation Commission Strategic Plan. After some additional editing, the plan was approved by the OGCC.

The plan outlines three main goals: Develop effective regulations, establish organization-wide expertise, and build partnerships. Achieving these goals through fiscal year 2018 will assist the OGCC in fulfilling their mission.

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## Update on Integration Applications

A petition for judicial review was filed in the Ada County District Court on March 18. The petition was to review the Commission's final orders for Alta Mesa's withdrawn integration applications (Dockets Nos. CC-2015-OGR-01-001 and CC-2015-OGR-01-002). The petitioners were parties in the contested case before the Commission and included twelve of the individual respondents and intervenor Citizens Allied for Integrity and Accountability. On April 25, the Petitioners filed a stipulation to dismiss their petition for judicial review with the district court. The parties agreed to dismiss the petition with prejudice and each party to bear their own costs and attorney fees. On April 29, the Stipulation to Dismiss Petition for Judicial Review was granted.

Dockets CC-2015-OGR-01-003 and CC-2015-OGR-01-004 had a hearing date set for June 16, 2016. On May 6, 2016, Alta Mesa submitted a Notice of Withdrawal of Application for both Dockets.

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## Update on Application to Omit Federal Lands

On March 9, 2016, Alta Mesa withdrew its application to omit BLM lands from the drilling unit described as Section 3 Township 8 North, Range 4 West, B.M. Payette County. That notice of withdrawal was effective March 23, 2016. Alta Mesa and the BLM signed a Communitization Agreement for this drilling unit on February 3, 2016. Alta Mesa had applied to omit the federal lands in that unit on November 20, 2013.

### Other Note

Idaho BLM is having a lease auction on July 27<sup>th</sup> for federal ownership in the Big Willow Creek Area.

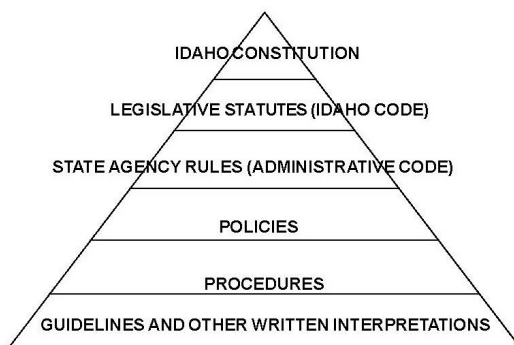
## Introduction to Rulemaking

The information from this article was taken from The Idaho Rule Writer's Manual, for more information please go to: [http://adminrules.idaho.gov/rulemaking\\_templates/rule\\_draftmanual.pdf](http://adminrules.idaho.gov/rulemaking_templates/rule_draftmanual.pdf)

The Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code), which governs rulemaking in Idaho, defines rulemaking as the process for the formulation, adoption, amendment, or repeal of a rule. This process may be driven by a number of different events but two of the most common are the enactment of a new or amended statute by our state Legislature or the adoption of new regulations by the federal government.

An agency affected by a statute or regulation may find that new administrative rules or revisions to existing rules are necessary to carry out statutory or regulatory provisions or other legal mandates. Through rulemaking the agency interprets, prescribes, and implements statutory law, and clarifies, standardizes, or establishes its procedure or practice requirements. This is done under authority established by the Legislature through statute. This, then, is an agency's ability to make "law" under powers granted by the Legislature through statute or directly by the Constitution. All rules promulgated within the authority conferred by statute, and in accordance with the Administrative Procedure Act (APA), have the full **force and effect of law** and must be regarded as such. However, even though administrative rules are given the force and effect of law, they do not rise to the level of statutory law. And, just as a law would be overturned by the courts, a rule is voidable if not promulgated in compliance with the procedural requirements of the APA, does not meet legislative intent, or exceeds or is outside the agency's substantive rulemaking or statutory authority.

### HIERARCHY OF STATE DOCUMENTS



ing procedures, rulemaking does not strictly involve due process rights since no one has a right to see that a certain policy is enacted.

**Negotiated rulemaking**- an informal part of the rulemaking process in which all interested and affected persons and the agency seek to reach a consensus on the content of a rule. The process is generally informal and flexible and allows agencies to conduct negotiations as needed to meet the needs of those involved.

**Proposed Rule**- a formal, written proposal by the agency to adopt a new rule or amend or repeal an existing rule in accordance with the Administrative Procedure Act is called a proposed rule. In order for any rule to become a final (permanent) and enforceable rule, it must, at some point, be a proposed rule and publish in the Administrative Bulletin. Proposed rulemaking is a legal process with strict procedural requirements that must be followed in order for the rule to become legally enforceable.

**Temporary Rule**- a rule that can be made immediately effective and enforceable upon its adoption by the agency or adopting authority prior to review and approval by the legislature. If not made immediately effective, it becomes effective and enforceable on the date specified in the rulemaking notice that is published in the Administrative Bulletin. However, a temporary rule can **only** be adopted and made enforceable if it meets certain criteria, as stipulated in the APA, and is approved for adoption by the Governor's Office. It is generally used to cover contingencies that require immediate action on the part of the agency and remains in effect for a specific period of time.

**Pending Rule**- Section 67-5201(14), Idaho Code, defines a pending rule as a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review. It is, therefore, "pending" legislative review for final approval. This is essentially the agency's "final rule," and the version of the rule is submitted for legislature approval as the final rule that is effective and enforceable.

**Final Rule**-The Idaho Administrative Procedure Act PA defines a final rule as one that has been adopted by an agency under regular rulemaking procedures pursuant to the APA and is in effect. Final rules are sometimes referred to as "permanent" rules and these rules, for most part, comprise the Administrative Code.

Agency rulemaking grants no authority not already conferred by statute or the Constitution. Rules, however, interpret and refine agency authority by specifying the functions, standards, and procedures of the public employees carrying out the Legislature's program. As extensions of the statutes they implement, rules govern what the public may or may not do in a manner consistent with the statute's purpose.

Rulemaking is the law-making power of an administrative agency. It is a process governed at the state level by statutes that establish the agency and grant it authority, as well as a statute (i.e. the Idaho Administrative Procedure Act) which defines rulemaking generally. An administrator who makes rules is a lawmaker, not unlike a legislator, but with more limited authority. Unlike judicial hear-

Previous newsletters and additional information can be found on the IDL oil and gas website: <http://www.idl.idaho.gov/oil-gas/regulatory/index.html>

### JAMES THUM OIL AND GAS PROGRAM MANAGER

300 N 6th Street  
PO Box 83720  
Boise, ID 83720-0050

Phone: 208-334-0200  
Fax: 208-334-3698  
E-mail: [jthum@idl.idaho.gov](mailto:jthum@idl.idaho.gov)

