



IDAHO OIL AND GAS CONSERVATION COMMISSION

Marc Shigeta, Vice Chairman
Jim Classen, Commissioner
Betty Coppersmith, Commissioner
Dr. Renee Love, Commissioner
Dustin T. Miller, Commissioner

Mick Thomas, Secretary to the Commission

Final Minutes
Idaho Oil and Gas Conservation Commission Regular Meeting
April 23, 2019

The regular meeting of the Idaho Oil and Gas Conservation Commission was held on Tuesday, April 23, 2019, at the State Capitol, House Hearing Room (EW42), Lower Level, East Wing, 700 W Jefferson St., Boise, Idaho. The meeting began at 1:01 p.m. Vice Chairman Marc Shigeta presided. The following members were present:

Commissioner Jim Classen
Commissioner Betty Coppersmith
Commissioner Renee Love – via teleconference
Commissioner Dustin T. Miller

For the record, all five Commission members were present with Commissioner Love joining via teleconference.

- **ANNOUNCEMENTS**

Vice Chairman Shigeta stated that there would be public comments accepted and that public comment will be taken after the Executive Session and at the end of the meeting.

- **REGULAR – ACTION ITEM(S)**

- 1. Election of Interim Chairman and Vice Chairman**

RECOMMENDATION: Direct the Commission to elect a Chairman and Vice Chairman.

DISCUSSION: Vice Chairman Shigeta asked about the dates of the elections. Secretary Thomas explained that while the current Commission was established in July of 2017, the elections did not take place until the first meeting in August 2017. Secretary Thomas clarified that this election is an interim position since the Chairman position is vacant and that the next regular election will be August 2019.

COMMISSION ACTION: A motion was made by Commissioner Love to elect Betty Coppersmith as the interim chair of the oil and gas Commission. Commissioner Miller seconded the motion. The

motion carried on a vote of 5-0. A motion was made by Commissioner Love to keep Vice-Chairman Shigeta as Vice-Chairman. Commissioner Miller seconded the motion. The motion carried on a vote of 5-0.

2. 2019 Commission Meeting Schedule

RECOMMENDATION: The Department recommends the Commission meet either bi-monthly or quarterly for the remainder of the 2019 calendar year.

DISCUSSION: Commissioner Classen stated that if the Commission had fewer regular meetings, a special meeting could still be held if needed. Secretary Thomas responded that was correct. After the motion was made, Commissioner Love expressed concern about quarterly meetings and asked about having bi-monthly meetings instead. Chairman Coppersmith responded that additional meetings could be scheduled as needed.

COMMISSION ACTION: A motion was made by Commissioner Miller that the Commission move to quarterly meetings for the remainder of the 2019 calendar year. Chairman Coppersmith seconded the motion. The motion carried on a vote of 4-1 with Commissioner Love casting the opposing vote.

At 1:10 p.m., a motion was made by Commissioner Miller to convene in Executive Session pursuant to Idaho Code 74-206(1)(f) to communicate with legal counsel for the public agency to discuss legal ramifications of and legal options for pending litigation or controversies not yet being litigated but imminently likely to be litigated. Vice Chairman Shigeta seconded the motion. Roll Call Vote at 1:11 p.m.: Aye: Love, Shigeta, Classen, Miller, Coppersmith; Nay: None; Absent: None.

• EXECUTIVE SESSION

- A. Idaho Code § 74-206 (1)(f) - to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: Docket No. CC-2016-OGR-01-004 and *CAIA v. Schultz*, United States Court for the District of Idaho Case No. 1:17-cv-00264-BLW]
- B. Idaho Code § 74-206 (1)(f) - to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. [TOPIC: Docket No. CC-2019-OGR-01-001; ML Investments #1-11]

At 2:17 p.m., the Commission resolved out of Executive Session by unanimous consent. Commissioner Miller stated that no action was taken by the Commission during the Executive Session.

Chairman Coppersmith explained that public comment would be taken on Docket No. CC-2016-OGR-01-004; Hearing on Vacating Order and procedures used to comply with the U.S. District Court for the District of Idaho's order in *CAIA v. Schultz*. Chairman Coppersmith explained that the comments need to be limited to vacating the spacing and integration orders and procedures to use next in *CAIA v. Schultz* and that the Commission not is determining today what factors are used to determine the

definitions of just and reasonable. Public comment is limited to three minutes per person. Seventeen people gave public comment.

At 3:16 p.m., Chairman Coppersmith called for a short break. The Commission meeting reconvened at 3:26 p.m.

- **REGULAR – ACTION ITEM(S)**

3. Docket No. CC-2016-OGR-01-004; Hearing on Vacating Order

RECOMMENDATION: None.

DISCUSSION: Commissioner Classen asked what the choices were on this item. Chairman Coppersmith responded that it was either to vacate the order or not.

COMMISSION ACTION: A motion was made by Vice Chairman Shigeta to vacate the March 7 Final Order, vacate the July 16 Administrator Order, rescind any leases made as a result of the orders, and to direct the Administrator to make a ruling on the Piotrowski motion. Commissioner Classen seconded the motion. Commissioner Miller also clarified that the motion included that the Administrator hold the hearing. The motion carried on a vote of 5-0.

4. Procedures used to comply with the United States District Court for the District of Idaho’s Order in *Citizens Allied for Integrity and Accountability, Inc. et al., v. Schultz et al., Case No. 1:17-cv-00264-BLW.*

RECOMMENDATION: None.

DISCUSSION: The options for this item were discussed; rulemaking or administrator order. Commissioner Classen talked about integration and that it is the Commission’s job to regulate exploration and production, prevent waste, protect correlative rights and enforce the provisions enacted by our legislators. Commissioner Classen asked Secretary Thomas to summarize points in the memo. Secretary Thomas explained that one option is the rulemaking process and the other option was an Administrator’s order. Secretary Thomas read more details from the memo. Vice Chairman Shigeta noted that rules go before germane committees with a do-pass recommendation. Commissioner Classen stated that rulemaking takes a long time. Chairman Coppersmith voiced that she was leaning toward the Administrator order because it gave multiple opportunity for public involvement whereas rulemaking was one-shot to comment and the rule would be set and if an application came in three years down the road, the public at that point would not get to provide comment. Commissioner Miller expressed concern that there is an uncertainty with rulemaking since the legislature adjourned without adopting rules and that it is a lengthy process and is not precisely what the judge called for in his order. Commissioner Love stated that the public wants to be heard and that she believed the public would have more opportunity to give public comment on a case-by-case basis. Commissioner Classen added that while the comments were important, most of them had to do with drilling not integration.

COMMISSION ACTION: A motion was made by Vice Chairman Shigeta that the Commission proceed with the Administrator order process. Chairman Coppersmith seconded the motion. Commissioner Classen asked for clarification that the Administrator's order is what will be used to comply with the judge's order. Chairman Coppersmith responded yes. The motion carried on a vote of 5-0.

5. Docket No. CC-2019-OGR-01-001; ML Investments #1-11 – Notice of Violation – Joint Motion to Accept Settlement Agreement and Consent Order – Presented by Kristina Fugate, Deputy Attorney General

RECOMMENDATION: The Department recommends the Commission issue an order that (1) accepts the Settlement Agreement and Consent Order and (2) accepts civil penalties against Alta Mesa in the amount of \$8,000 (\$5,000 for Violation One, \$3,000 for Violation Two).

DISCUSSION: Commissioner Miller asked why there was no deadline set for the submission of required documents and application fee. Deputy Attorney General Kristina Fugate responded that it had already happened; Secretary Thomas also stated that it had. Program Manager James Thum clarified that the application and report were submitted and posted to the Commission website and that the application fee had been paid. Commissioner Classen inquired about whether or not the operator would do a better job on this in the future. Mr. Thum responded that he told the operator that he did not want this happening again and that he was available 24/7. He added that the operator was accommodating and provided the information in a timely manner. Commissioner Love asked Mike Christian, attorney for the operator, why this happened. Mr. Christian responded that he did not have any direct involvement but that his understanding was that it was a miscommunication. Chairman Coppersmith asked if the operator had made procedural changes as a result. Mr. Christian responded that since this happened, Idaho operations are no longer run by Houston but by High Mesa which is a different staff. Mr. Christian also mentioned that he has asked to be more involved with the operations to ensure that it is followed by rule and statute.

COMMISSION ACTION: A motion was made by Commissioner Miller that the Commission accept the settlement agreement and consent order as well as the penalties amount of \$8,000. Commissioner Classen seconded the motion. The motion carried on a vote of 5-0.

6. State Review of Oil and Natural Gas Environmental Regulation (S.T.R.O.N.G.E.R.) – Presented by Mick Thomas, Division Administrator – Oil and Gas

RECOMMENDATION: The Idaho Department of Lands recommends the Commission advise the Oil and Gas Division to move forward with the S.T.R.O.N.G.E.R review process.

DISCUSSION: This review process would analyze the state of Idaho's environmental regulations regarding oil and gas. The review would involve multiple state agencies and stakeholders including Idaho Department of Lands (IDL), Idaho Department of Water Resources (IDWR), Idaho Department of Environmental Quality (IDEQ) and the Environmental Protection Agency (EPA). Commissioner Classen requested that this item be explained in the minutes as it is an example of how the Commission is trying to incorporate appropriate environmental concerns. Commissioner Miller agreed and inquired about any fees assessed upon the State or Commission for this review. Secretary Thomas responded that there are no fees assessed and added that this is funded through

the Interstate Oil and Gas Compact Commission (IOGCC) which S.T.R.O.N.G.E.R. is an affiliation of. Secretary Thomas reminded the Commission that the Department does pay to be a member of the IOGCC but the actual review is free of charge.

COMMISSION ACTION: A motion was made by Commissioner Love to move forward with the review process. Commissioner Miller seconded the motion. The motion carried on a vote of 5-0.

- **CONSENT – ACTION ITEM(S)**

7. Approval of Minutes – February 13, 2019 - Regular Meeting (Boise)

8. Approval of Minutes – February 26, 2019 - Special Meeting (Boise)

CONSENT AGENDA COMMISSION ACTION: A motion was made by Vice Chairman Shigeta that the Commission approve the meeting minutes on the Consent Agenda. Commissioner Miller seconded the motion. The motion carried on a vote of 5-0.

Background information was provided by the presenter indicated below. No Commission action is required on the Information Agenda.

- **INFORMATION**

9. Division Administrator’s Report

A. Financial Update

B. Current Oil and Gas Activity

Commissioner Love inquired about the well in Eastern Idaho and whether or not any cuttings were taken and sent to the Department. Secretary Thomas responded that cuttings were sent to the Department who then sent them to the Idaho Geological Survey.

C. Status Update

i. Class II Injection Well – Permit Status

ii. Docket No. CC-2017-OGR- 01-002 – Kauffman Complaint

10. Quarterly Report - Fourth Quarter 2018 – Presented by James Thum, Program Manager – Oil and Gas

11. Operator Records Examined/Allocation Investigation – Presented by Dave Schwarz – Field Inspector, Oil and Gas

Commissioner Love made a motion to move agenda item 11 to the next meeting due to time constraints. Commissioner Miller seconded the motion. Commissioner Classed stated that the work done by oil and gas inspector Dave Schwarz is significant and that it should be at the beginning of the next meeting. Commissioner Miller voiced agreement. The motion carried on a vote of 5-0.

