BEFORE THE IDAHO OIL AND GAS CONSERVATION COMMISSION

In the Matter of Petitions for Rulemaking to determine the factors to be considered when determining whether the terms and conditions of an integration order are “just and reasonable”

DENIAL OF PETITIONS FOR INITIATION OF RULEMAKING

On March 27, 2019, Richard ‘Mick’ Thomas, Oil and Gas Division Administrator (“Administrator”) at the Idaho Department of Lands (“Department”) and Secretary to the Idaho Oil and Gas Conservation Commission (“Commission”) issued a Notice of Hearing to Vacate Order in Docket No. CC-2016-OGR-01-004. This notice explained that on Tuesday, April 23, 2019, the Commission would allow the parties to Docket No. CC-OGR-2016-01-004 an opportunity to be heard regarding the Commission’s compliance with the Memorandum Decisions and Orders entered by the federal district court in Citizens Allied for Integrity and Accountability, Inc. et al., v. Schultz et al., Case No. 1:17-cv-00264-BLW. Particularly, the Commission asked for testimony regarding the procedures and steps the Commission should take to determine terms and conditions that would fulfill the statutory requirement that “[e]ach such integration order shall be upon terms and conditions that are just and reasonable.”

As a result of that Notice of Hearing to Vacate Order, the Department received written comments on April 8 and April 9, 2019, some of which asked the Commission to initiate rulemaking. These written comments were presented to the Commission at its April 23, 2019 meeting. The Commission also allowed public comment at that meeting. After considering the written comments and listening to public comment at the April 23, 2019 meeting, the Commission unanimously denied the petitions for rulemaking and instead decided that for the current unit
proposed to be integrated and future units to be integrated, administrative orders would be used to
determine, after notice and opportunity for hearing, what factors the Administrator would consider
when determining whether the terms of integration order are "just and reasonable."

The Commission based its denial of the petitions for rulemaking on the following:

1. The Commission believes an administrative order in each contested case can best achieve
   the direct involvement of mineral interest owners in each proposed unit to be integrated.
   An administrative order will allow each of the mineral interest owners in a proposed unit
   the opportunity to be involved in determining the factors used to determine "just and
   reasonable terms" for that unit. The Commission believes rulemaking would not as
effectively ensure direct involvement of persons affected because it would take place
once on a state-wide basis. Some mineral interest owners may be integrated years after
the rulemaking takes place and would not be able to participate in the development of
those factors at the time their unit was proposed to be integrated.

2. An administrative order allows the Administrator and the Commission to better address
   the factors to be considered when determining just and reasonable because an order
   allows mineral owners to participate in the development of unique factors for their
   specific unit. This ensures their participation will be meaningful because it gives them a
voice when their mineral rights may be affected, and they can propose factors that are
unique to their situation and the specific unit proposed. Mineral interest owners will then
know those factors in advance so they can later meaningfully participate in the
evidentiary hearing. The Commission believes an administrative order will accomplish
this more effectively than rulemaking because factors determined through a state-wide
rulemaking may not be tailored to the specific and unique facts and circumstances of every proposed unit.

3. The Commission believes that rulemaking may not proceed as efficiently and effectively as using an administrative order because rulemaking is a lengthy process that involves the general public, not just people within a particular unit. Proceeding in an expeditious manner as to current integration applications and future integration applications ensures that Commission can efficiently issue orders that continue to protect the correlative rights of those mineral interest owners within in each unit.

4. Proceeding with an administrative order is consistent with the practices of other Oil and Gas Conservation Commissions. As a member state of the Interstate Oil and Gas Compact Commission, the Department asked that member states be surveyed regarding how they described the term “just and reasonable” Of the nineteen member states that responded with how they addressed the term, none indicated the term was defined in rule or statute, rather the term is typically described within the hearing process and at the discretion of the Commission of the respective state. An administrative order will preserve that discretion, which is consistent with the discretion Commissions exercise in other states.

The Commission has denied the petitions to initiate rulemaking. The denial of these petitions for rulemaking is a final agency action within the meaning of Idaho Code § 67-5230. Pursuant to Idaho Code § 67-5230, any person aggrieved by this denial may seek review of the denial by filing a petition for judicial review in the District Court of the county in which: (i) the hearing was held; (ii) the final agency action was taken; (iii) the party seeking review resides, or operates its principal place of business in Idaho; or (iv) the real or personal property that was the
subject of the denial of the petition for rulemaking is located. The appeal must be filed within twenty-eight (28) days of the service date of this denial of the petition to initiate rulemaking. Idaho Code § 67-5273.

Dated this 6th day of May 2019.

Betty Coppersmith
Chairman of the Idaho Oil and Gas Conservation Commission

Richard “Mick” Thomas
Secretary to the Idaho Oil and Gas Conservation Commission
CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May 2019, I caused to be served a true and correct copy of the Denial of Petitions for Initiation of Rulemaking by the method indicated below:

Mike Christian – Attorney for Operator
James Piotrowski – Attorney for Objecting Landowners
George Bacus
Shelly Brock – CAIA
Petra Cervino
Shelia Clark
Dianna David
Linda Eekhof
Joli Eromenok
Rebecca and Terry Ferrera
Kyle Romans
Carrie Grant
Mary Hunter
Phil Carney
Thomas Kennedy
Tim Ketinski
Sue Koller
Heather Lowe
Bryant and Carolyn Lyndaker
Randall Nilson
Mary Ollie
Lorri Quas
Kimberly Ross
Bob Shepard
Sharon Simmons
Nancy Stone
Jennifer Tanouye
Dylan and Connie Wells
Anna Wingert
Tim Yoder
Alvin and Nancy Adams
Zach and Heidi Adams
Cookie Atkins
Sharon Holtry Benedict
Julie Fugate for Sue Bixby
Sherry Black
Karen Rudolph (Campbell)

Email: MChristian@mch-lawyer.com
Email: james@idunionlaw.com
Email: geo_bec1@msn.com
Email: sb-caia@hotmail.com
Email: cervino@cableone.net
Email: sheila.clark@southofnormal.com
Email: drsworldwide@sbcglobal.net
Email: lindaehof@icloud.com
Email: au.miner07@gmail.com
Email: reb57f@gmail.com
Email: cgrant@fntc.com
Email: dogsaflying@gmail.com
Email: carneyidaho@gmail.com
Email: tom@thomaskennedy.com
Email: tim@qualafab.com
Email: vulcanrider.sue@gmail.com
Email: blowe80@gmail.com
Email: blyndaker@yahoo.com
Email: randy_nilson@hotmail.com
Email: maryollie83@gmail.com
Email: lorri.quas@gmail.com
Email: kim1209@yahoo.com
Email: bobshepard4431@gmail.com
Email: smswkdog@gmail.com
Email: nbsidaho4@gmail.com
Email: jentanouye1971@gmail.com
Email: kesscm@yahoo.com
Email: banana27453@yahoo.com
Email: timmyoutside@live.com
Email: nancyann5311@gmail.com
Email: cookieatkins@gmail.com
Email: sbenedict81@gmail.com
Email: letstalkjp2004@yahoo.com
Email: riseabovedyslexia@yahoo.com
Email: campbell.campbellfamily@gmail.com
Lowell and Geraldine David
Dana Gross
Judy Echanow
Julie Fugate
Sherry Gordon
Heather Holtry
Joey and Brenda Ishida
Jordan Gross
Ryan Keck
Caroline Morris
Joe Morton
Mel and Terri Person
Jeanette Reiners
Jane Rohling
Kris Tabor
Nancy Wood

Email: tnt@fmtc.com
Email: canacayleen@hotmail.com
Email: givernymonet@icloud.com
Email: letstalkip2004@yahoo.com
Email: sherrygordon5@gmail.com
Email: hholtry@hotmail.com
Email: joeyandbrenda@icloud.com
Email: idahojordan@me.com
Email: mkck67@gmail.com
Email: fleursmorris@gmail.com
Email: jmorton@silverleafidaho.com
Email: tmperson@fmtc.com
Email: jeanette.reiners@gmail.com
Email: jmrohlings@gmail.com
Email: kristaborart@gmail.com
Email: lnbwood@comcast.net

Kourtney Romin
Administrative Assistant