



**IDAHO OIL & GAS**  
CONSERVATION COMMISSION



# **Oil & Gas Informational Meeting**

With Idaho Department of Lands Director Tom Schultz

**Tuesday, June 28, 2016**

Emmett Middle School, Emmett



# Overview

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- ▶ History of Oil & Gas in Idaho
  - ▶ Legal Framework
  - ▶ Split Estate
  - ▶ Rule of Capture
  - ▶ Integration
  - ▶ Taxes
  - ▶ Bonding
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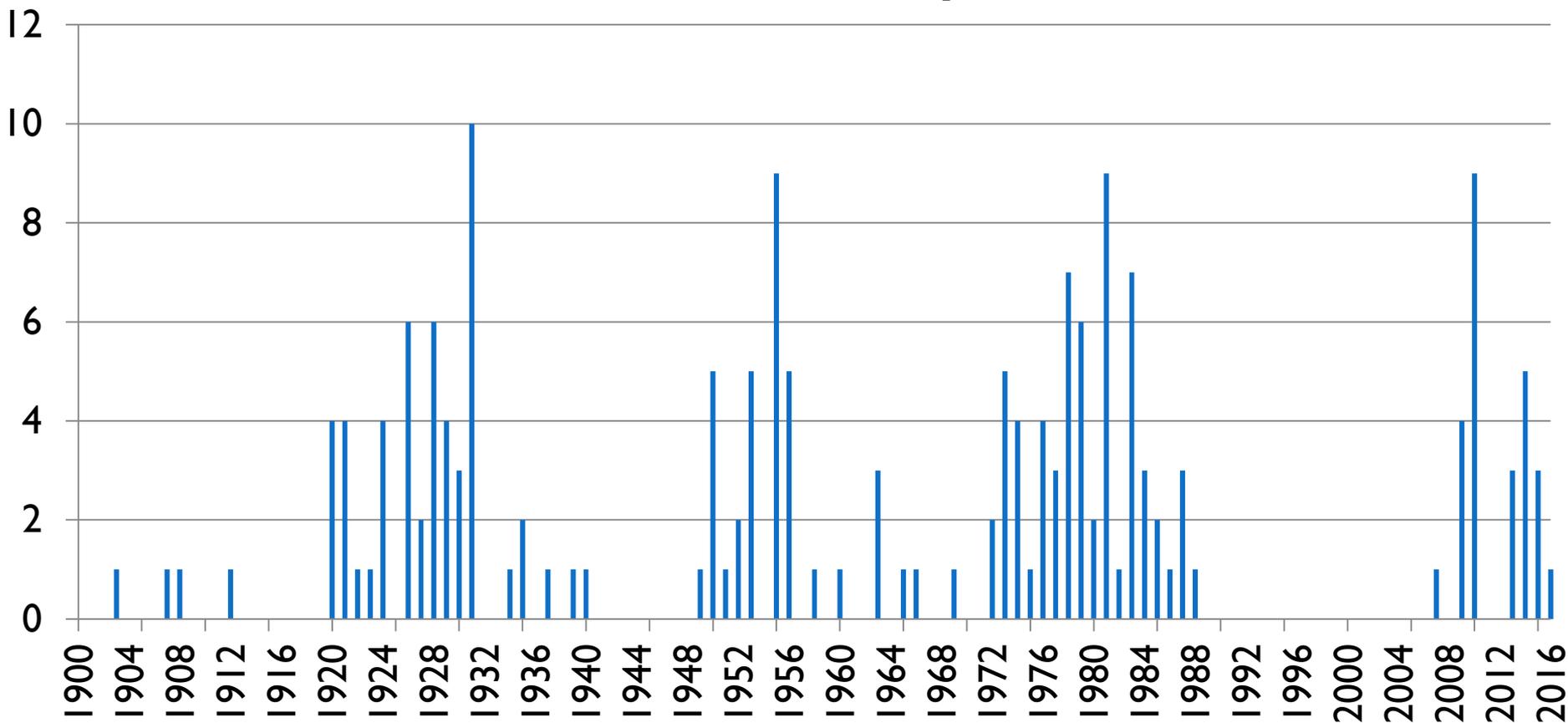
# History of Oil & Gas in Idaho

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- ▶ 1903-1988 - Approximately 145 wells drilled throughout the state to explore for hydrocarbons
- ▶ 2010 – Bridge Resources drilled 11 wells near New Plymouth in Payette County
  - ▶ Changed name to Idaho Natural Resources Corp. in 2012
- ▶ 2012 – Snake River Oil + Gas purchased assets from Idaho Natural Resources Corp., partnered with AM Idaho
  - ▶ Maintains largest presence in Idaho
- ▶ 2013-2014 – AM Idaho conducts exploration and drilling of new wells
- ▶ Today: 19 permitted wells; 8 wells in production

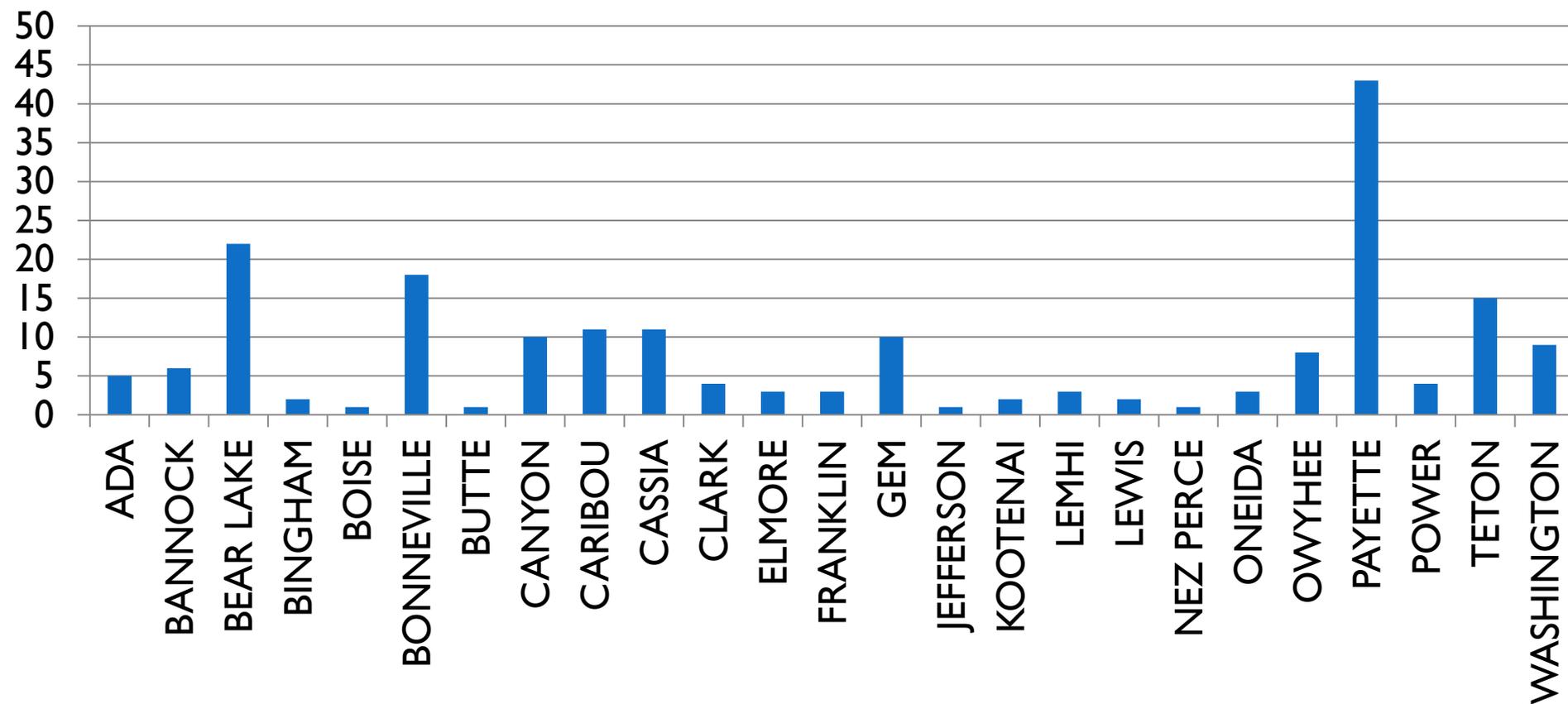
# History of Oil & Gas in Idaho

## Number of Wells by Year



# History of Oil & Gas in Idaho

## Wells by County



# Recent History

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- ▶ Drilling permits issued in late 2009
- ▶ Drilling started in early 2010
- ▶ Gas discovery announced in 2010





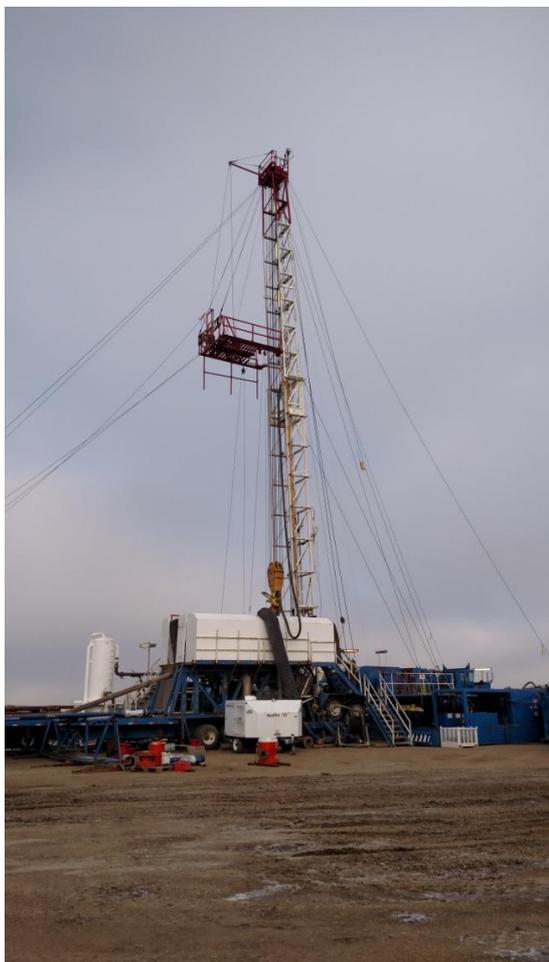
# Most Activity is in Western Idaho

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- ▶ Leasing activity extends from Washington County to Gem, Canyon, and Ada Counties.
  - ▶ Willow Field, roughly north of the Payette River at the lower ends of Big and Little Willow Creeks
  - ▶ Hamilton Field, centered on New Plymouth
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# What Is Being Produced?

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- ▶ Mostly natural gas (methane)
- ▶ Some condensate (very light oil)
- ▶ Natural gas liquids (propane, butane, etc.)
- ▶ Oil

Drill rig working on Idaho well

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# Legal Framework

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- ▶ **1963** – Oil & Gas Conservation Act adopted
  - ▶ **1992** – Last time (before 2012) that Rules were updated
  - ▶ **2012** – Rule changes (negotiated, public process), statutory changes
  - ▶ **2013** – Statutory change to alter the composition of the OGCC, other changes
  - ▶ **2014** – Statutory changes
  - ▶ **2015** – Rule changes (negotiated, public process), statutory changes
  - ▶ **2016** – Statutory changes
  - ▶ **Currently** – negotiated rulemaking is underway
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# Oil & Gas Conservation Commission

- ▶ Until 2013, Commission was made up of same five members on Land Board
- ▶ Five-member citizen commission appointed by Governor and confirmed by Senate
  - ▶ One oil & gas expert; one geological expert; one water expert; two landowners, one with mineral rights and one without
  - ▶ Monthly meetings
  - ▶ IDL is administrative arm; Director Schultz secretary

CHAIRMAN CHRIS BECK  
WATER INTERESTS



VICE CHAIRMAN MARGARET CHIPMAN  
LANDOWNER WITH MINERAL RIGHTS



KEN SMITH  
OIL AND GAS INTERESTS



SID CELLAN  
LANDOWNER WITHOUT MINERAL RIGHTS



JAMES CLASSEN  
GEOLOGICAL INTERESTS





# Legal Framework

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- ▶ Idaho Statute
    - ▶ **Title 47 Chapter 3** Oil and Gas Wells – Geologic Information, and Prevention of Waste
  - ▶ Idaho Administrative Rules
    - ▶ Rules provide road map for how statute is to be implemented
    - ▶ Changes typically undergo negotiated rulemaking process authorized by OGCC and conducted by IDL (public process). Takes 6-9 months or longer to negotiate with the public. Rule changes must be approved by Idaho Legislature.
      - ▶ **20.07.02** Rules Governing Conservation of Crude Oil and Natural Gas in the State of Idaho
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# Legal Framework

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## ▶ **Other State Agencies**

- ▶ Idaho Department of Environmental Quality (DEQ)
    - ▶ Water quality standards and waste water treatment requirements
    - ▶ Air quality standards
    - ▶ Hazardous and solid waste management
  
  - ▶ Idaho Department of Water Resources (IDWR)
    - ▶ Injection wells
    - ▶ Drill permits
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# Oil & Gas Conservation Commission Responsibilities

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- ▶ **Idaho Code § 47-319 (2)**
    - ▶ “Regulate exploration for and production of oil and gas”
    - ▶ “Prevent waste of oil and gas”
    - ▶ “Protect correlative rights”
    - ▶ “In the event of a conflict, the duty to prevent waste is paramount”
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# Legal Framework

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## ▶ **Local Jurisdictions – City and County**

### ▶ Idaho Code § 47-317 (10)

- ▶ Commission notifies city and county of any new applications
  - ▶ “No ordinance...shall actually or operationally prohibit the extraction of oil and gas...”
  - ▶ “Extraction may be subject to reasonable local ordinance provisions...which protect public health, public safety, public order or which prevent harm to public infrastructure or degradation of the value, use, and enjoyment of private property...”
  - ▶ “No ordinance...shall actually or operationally prohibit construction or operation of facilities and infrastructure needed for the post-extraction processing and transport of gas and oil. However, such facilities and infrastructure shall be subject to local ordinances, regulations and permitting requirements...”
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# Split Estate

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- ▶ Split estate = When surface owner is not the mineral owner
    - ▶ Owner sells surface, retains minerals
  - ▶ If you own land without the rights to minerals, your land once was owned by State or federal government or a private entity, and the government or private entity retained the minerals when it sold the land to a private party
  - ▶ Mineral rights are property rights
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## Split Estate – Mineral Estate is Dominant Estate

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- ▶ Mineral estate is the “dominant estate”
    - ▶ Mineral owners are entitled to make reasonable use of the surface estate for exploration, drilling, and production of mineral interests. Any property owner (surface or mineral) can seek redress with the court system should their property rights be infringed upon.
  - ▶ If there is a split estate, and prior to drilling a well, mineral interest owner is required to attempt to negotiate a surface use agreement to address compensation and reclamation of surface impacts
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# Split Estate

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## ▶ **How do I know if I own mineral rights?**

### ▶ **County Assessor – Mineral Estate Records**

- ▶ If record shows a reserve by the previous owner it means you do not own the reserved portion of the mineral estate
- ▶ If it shows a reserve by the Idaho Department of Lands or federal patent lands, you do not own that portion of the mineral estate
- ▶ If you own the mineral estate no reservation will be shown against the property

### ▶ **Title insurance policy issued when property was purchased**

- ▶ Policy documents may disclose whether the mineral estate was previously severed. If a title insurance policy was previously issued insuring your ownership interest, the title company that issued the policy is able to look it up for you
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# Split Estate - Surface Owner Protections

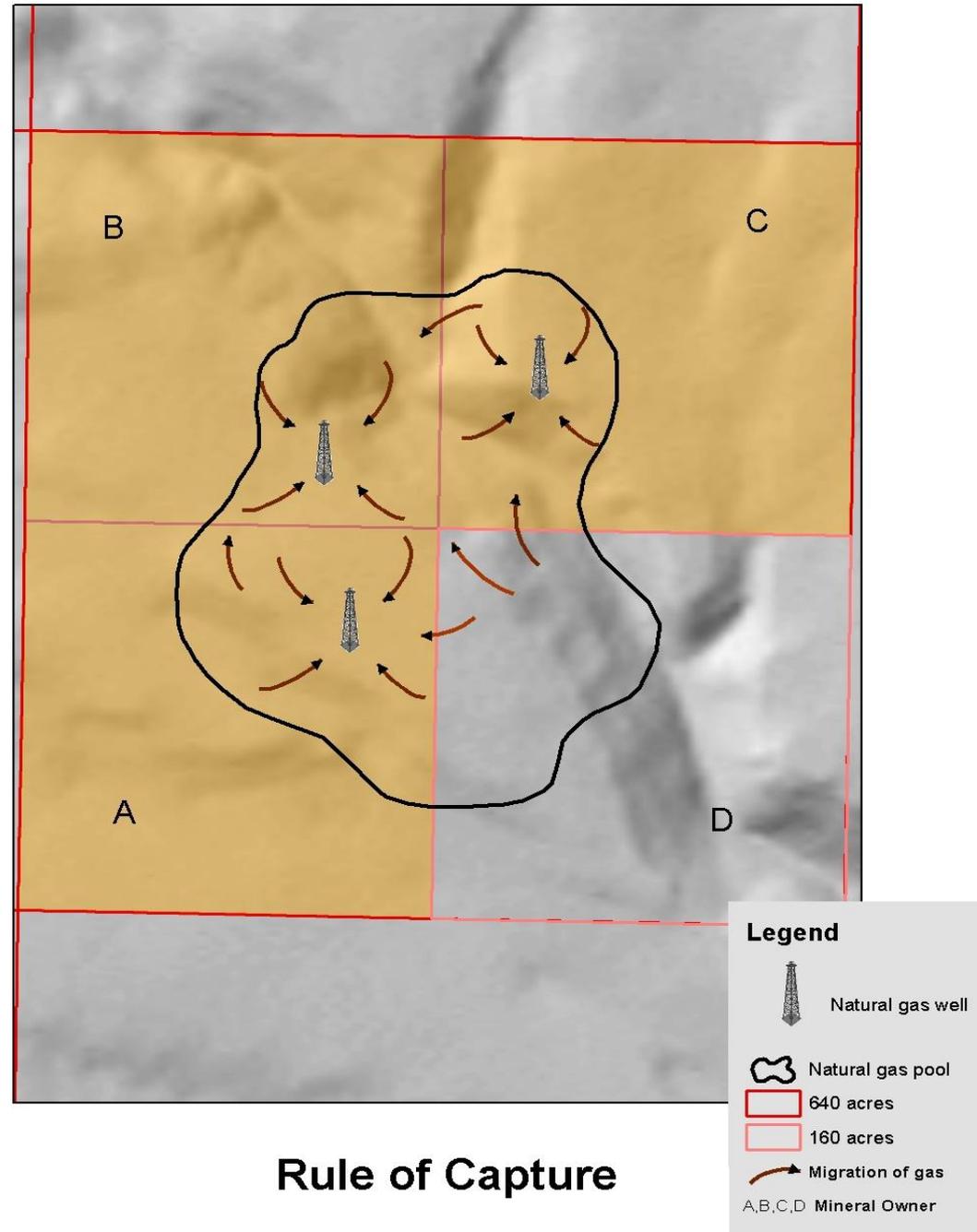
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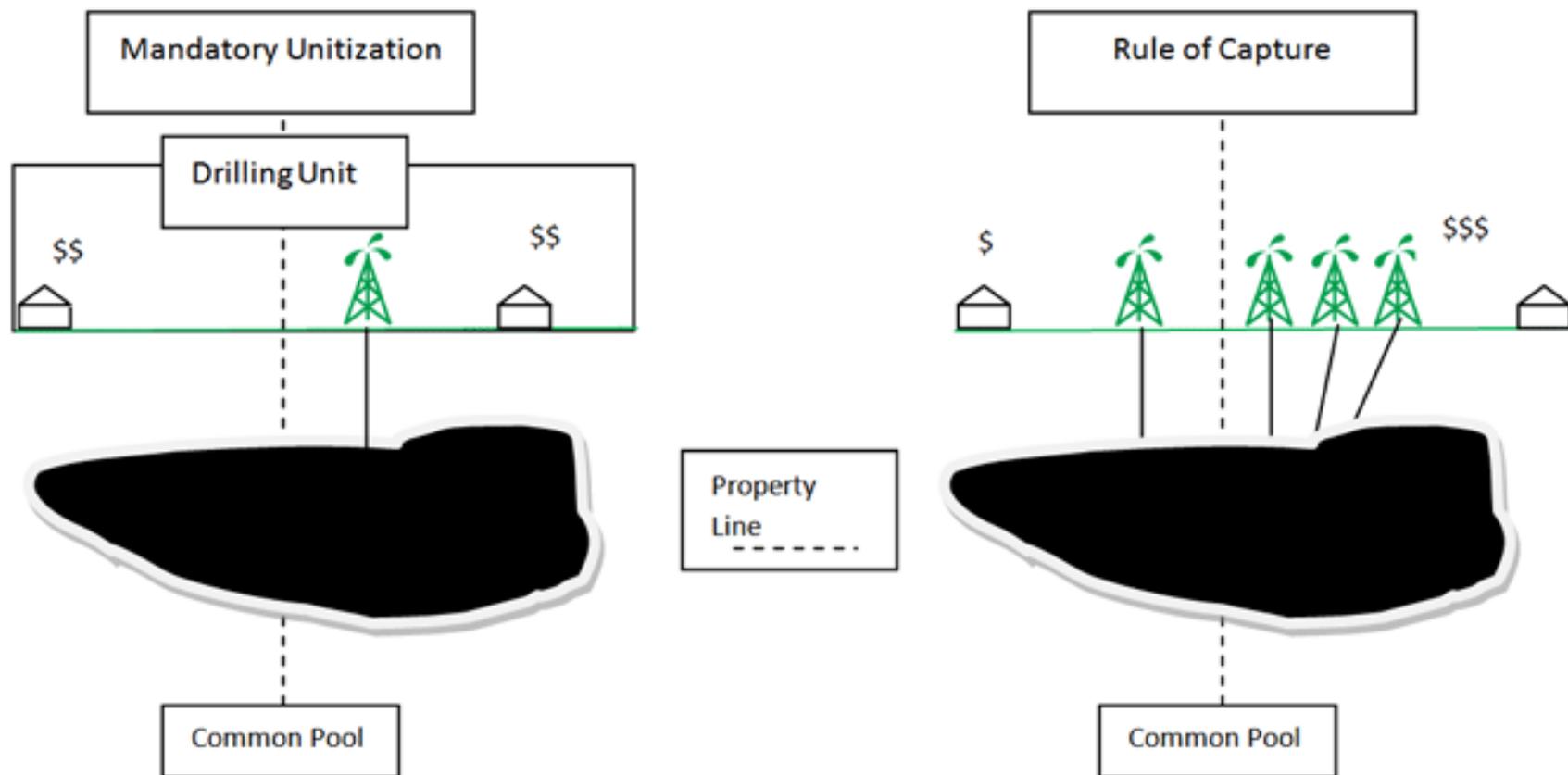
- ▶ Outlined in Rule 110
  - ▶ If split estate, company must attempt to negotiate surface use agreement with surface owner, for exploration *and* drilling activities
    - ▶ Addresses compensation for lost agricultural income and lost value of improvements caused by oil & gas exploration and production
    - ▶ Addresses reclamation of surface impacts
    - ▶ Because mineral estate is dominant estate, agreement does not address whether the exploration or drilling activity can take place
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# Rule of Capture

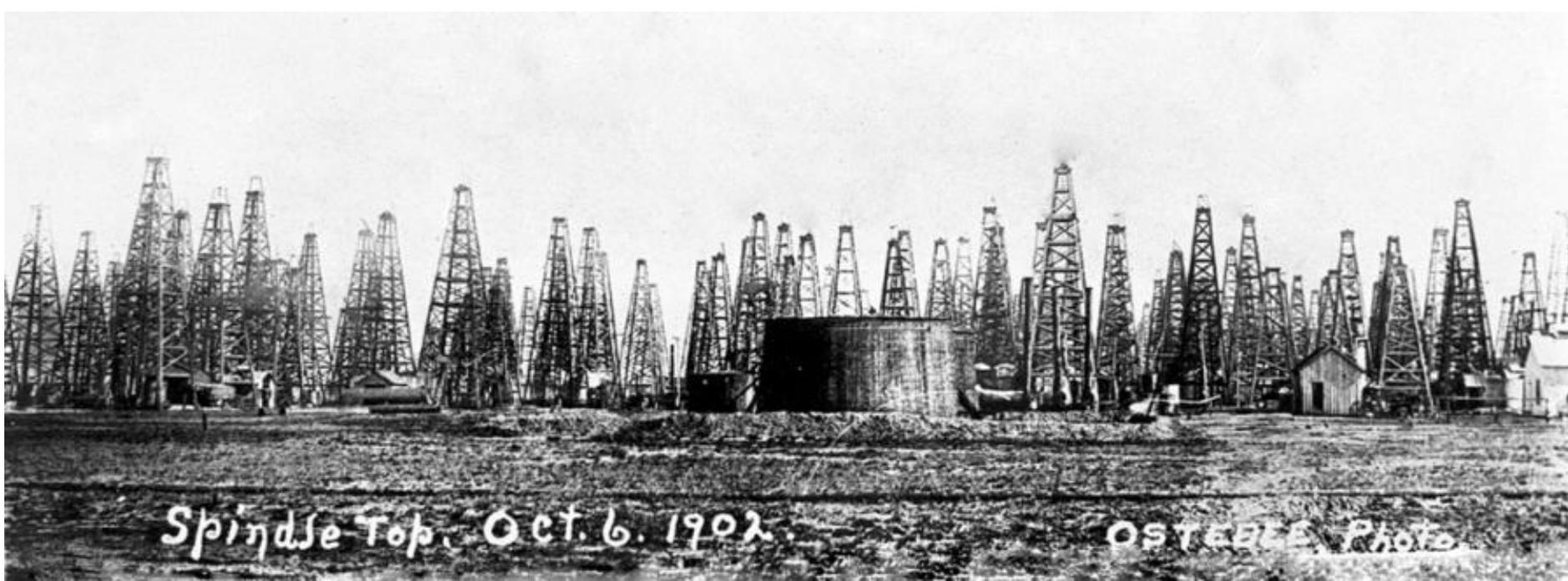
- ▶ Definition = Establishes rule of ownership of captured natural resources, including oil & gas
- ▶ Oil & gas migrate from beneath one tract of land to another
- ▶ First person to capture the resource owns that resource
- ▶ Without spacing requirements and integration, results in many wells drilled



# Rule of Capture



From "Compulsory Pooling Laws: Protecting the Conflicting Rights of Neighboring Landowners" by the National Conference of State Legislatures, available at <http://www.ncsl.org/research/energy/compulsory-pooling-laws-protecting-the-conflicting-rights-of-neighboring-landowners.aspx>



Spindletop, Oct. 6, 1902.

OSTERLIND PHOTO

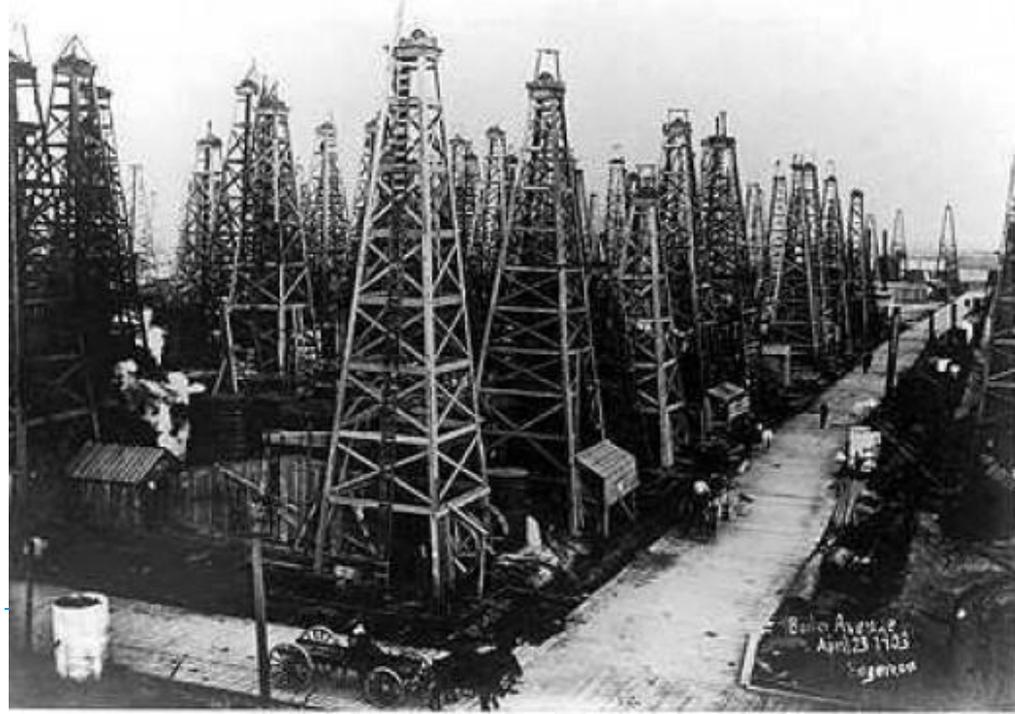
## Spindletop - 1903

Beaumont, Texas

400 wells

100 companies

100,000 bbls/day



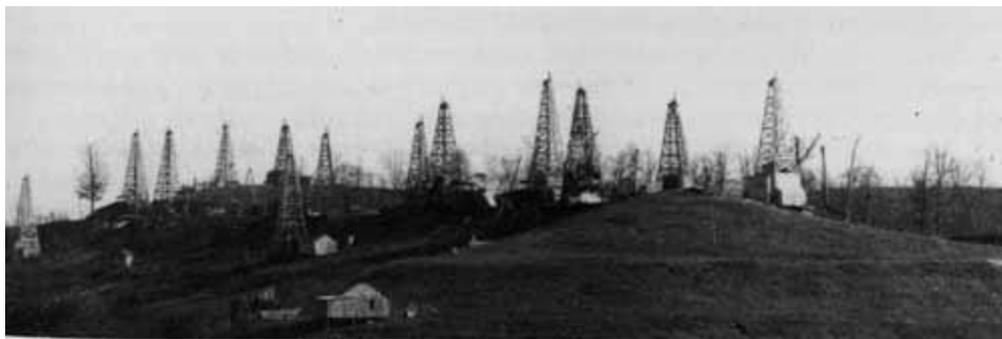
Baker Avenue  
April 23, 1903  
L. J. Rogers

# Rule of Capture

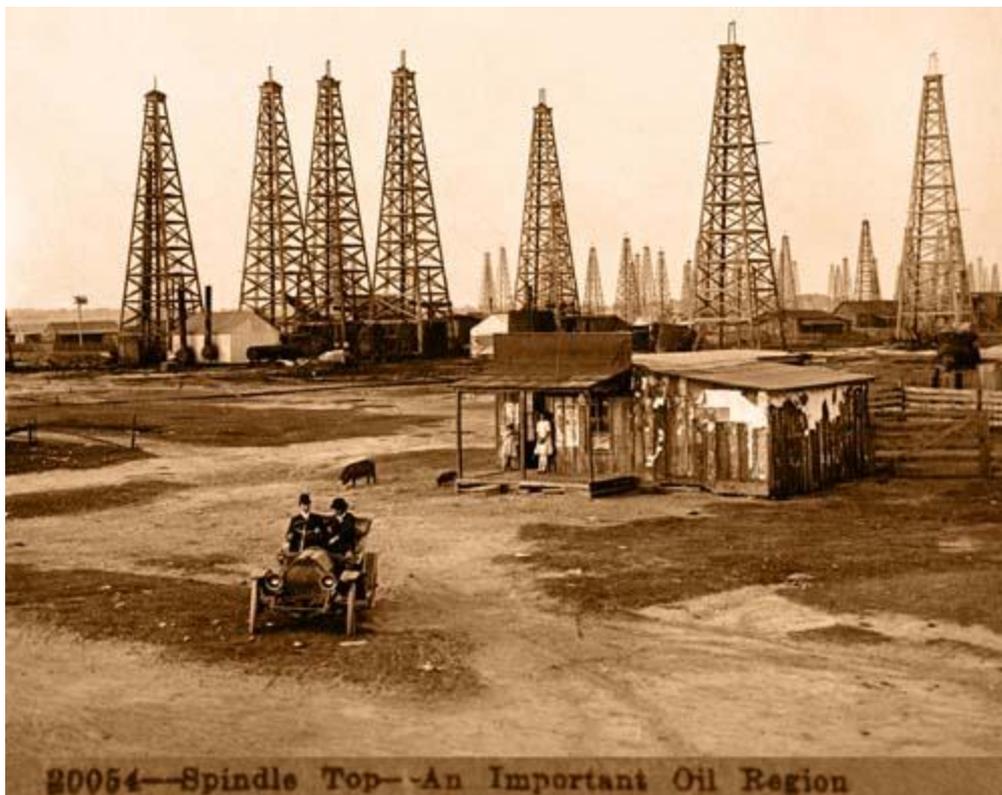


## **The Long Beach Oil Field underneath Long Beach and Signal Hill, California**

1950s - Few regulations on well spacing. Signal Hill became known as "Porcupine Hill" for its prickly appearance from oil derricks



Spindletop At St Marys, West Virginia In The Early 1890's



20054—Spindle Top—An Important Oil Region

Idaho Oil and Gas Conservation Act enables extraction but prevents waste.

The mechanism to do that while protecting Idahoans' mineral rights is through spacing requirements, integration, other laws.



# Integration

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- ▶ Definition = Process of pooling mineral tracts for inclusion into a spacing unit for the purpose of producing oil & gas resources while protecting correlative rights
  - ▶ Added to Idaho Code in 1963 as part of Idaho Oil and Gas Conservation Act
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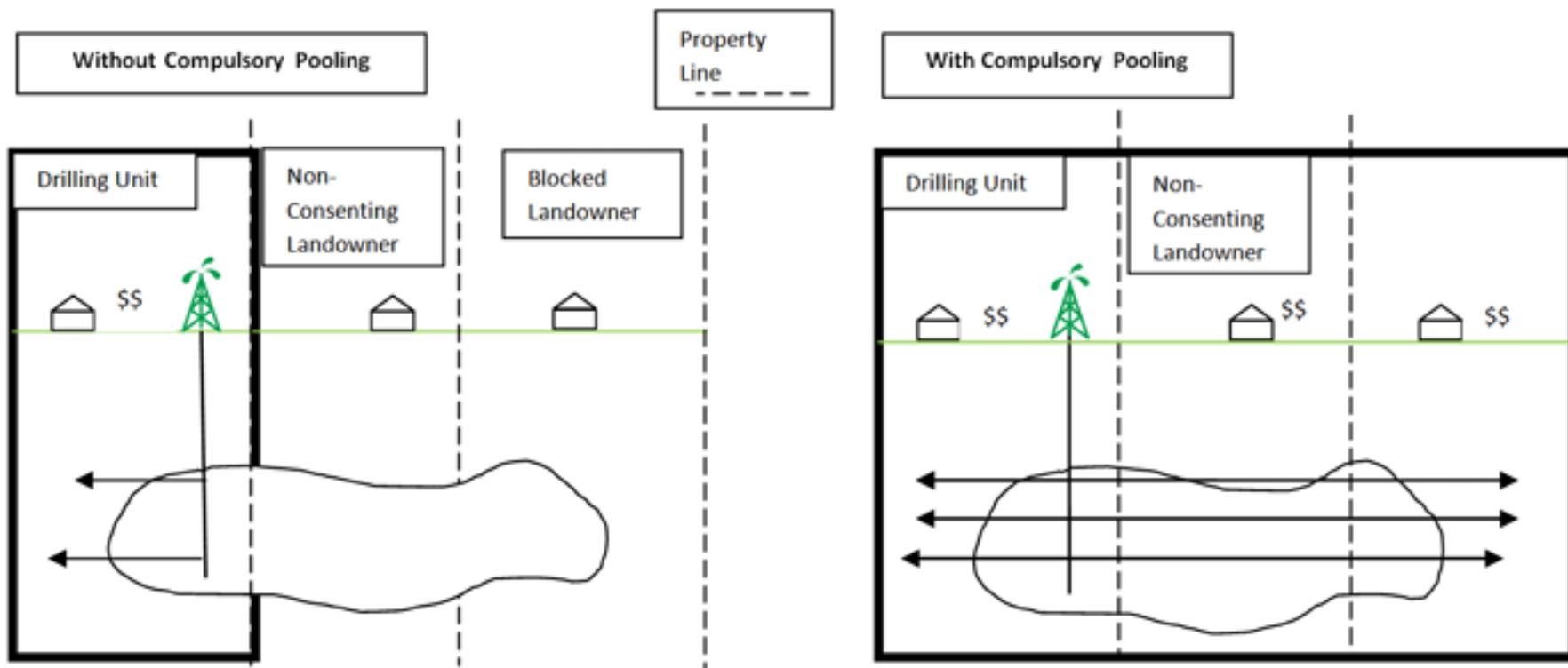


# Integration

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- ▶ Prevents unnecessary drilling, makes sure mineral owners are compensated (protects mineral property rights)
  - ▶ Deals with MINERAL OWNERSHIP not surface ownership
    - ▶ Surface owner agreements dealt with in Rule 110
  - ▶ Foundation for integration is spacing; if a company wants to deviate from standard spacing of one well per 640 acres for gas or one well per 40 acres for oil, then it has to submit an application to IDL
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# Integration



From "Compulsory Pooling Laws: Protecting the Conflicting Rights of Neighboring Landowners" by the National Conference of State Legislatures, available at <http://www.ncsl.org/research/energy/compulsory-pooling-laws-protecting-the-conflicting-rights-of-neighboring-landowners.aspx>



# Integration Process

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- ▶ Before well operator (“applicant”) submits integration application:
  - ▶ Secures at least 55 percent of mineral acres through leases with mineral interest owners or by mineral interest owners participating as working interest owner
  - ▶ Contacts mineral interest owners at least twice
- ▶ Applicant sends copy of complete integration application to IDL, processing described in Idaho Code § 47-322 and 47-324
  - ▶ IDL serves the integration application to all uncommitted mineral interest owners in the spacing unit and the city and county
  - ▶ Hearing must be held within 30 days of application
  - ▶ Mineral owners must respond 7 days prior to hearing

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*Process continued on next slide*



# Integration Process continued

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- ▶ Hearing is conducted; IDL Director or a Hearing Officer listens to testimony from applicant, mineral interest owners in the drilling unit, and receives public comment.
  - ▶ Order issued with final hearing decision
  - ▶ If granted, unleased mineral interest owners have five options for participation in the drilling and production of oil and gas within the unit. Parties to be integrated will have a period of time to respond with the option they choose.
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# Integration Options

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## Participation

- ▶ **Lease** – This can be done by signing a lease with an operator (applicant) under terms in the integration order. The owner shall receive a 1/8 royalty. And is paid the same bonus per acre as the operator originally paid to other owners in the spacing unit.
  - ▶ **Participate as a Working Interest Owner** – The mineral interest owner will pay the proportionate share of the actual costs of drilling the well up front as an investment, then receive their proportionate share of the production of the well. They will not get their investment refunded if the well turns up dry.
  - ▶ **Elect Non-Consenting Working Interest Owner** – Mineral interest owners can choose to invest without paying drilling costs upfront. They will receive a 1/8 royalty up to 300 percent of the owner's share of the drilling and operating costs. This is called a risk-penalty and is considered working interest owners' investment in the well, similar to an investment in a business. Once the penalty is met, they will receive 100 percent of their proportionate share of the production of the well from that point forward. They are not required to pay the penalty if the well turns up dry.
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# Integration Options

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## Non-Participation

- ▶ **Objector** – Mineral interest owners can object to any participation. They will be deemed leased, under terms and conditions established in the integration order, and will receive a 1/8 royalty and a bonus payment based on the highest bonus paid in that drilling unit. They are not subject to paying any costs of the well nor is there any risk-penalty. The owner may elect to have his royalty payments directed to the STEM Action Center.
  - ▶ **Deemed Leased** – Mineral interest owners can decide not to enter any agreement with an operator. They will be deemed leased and given 1/8 royalty and receive a bonus payment based on the highest bonus paid in that drilling unit. They are not subject to paying any costs of the well nor is there any risk-penalty.
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# Tax Commission Involvement

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\$ - Collects 2.5% severance tax

\$ - Audits

\$ - Enforces collections

\$ - Inter-accounts 60% of proceeds to IDL for use by the  
Oil and Gas Conservation Commission

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## Other 40% of Severance Tax

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\$ - 28% to Counties with production

\$ - 28% to Cities in these counties

\$ - 28% to Public School Income Fund

\$ - 16% to Local Economic Development Account

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# Current Tax Collections Since 2014

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- ▶ Total Oil & Gas Tax Collected - \$74,000
  - ▶ Total received by IDL - \$44,400
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# Bonds

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## Active Wells

Individual well bond of \$10,000 plus \$1/foot of well length.

- ▶ Blanket bonds:
  - Up to 10 wells - \$50,000
  - 11 to 30 wells - \$100,000
  - Over 30 wells - \$150,000

## Inactive Wells

- ▶ Individual well bond of \$10,000 plus \$8/foot of well length.
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# Resources

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- ▶ “Oil and Gas Resource Exploration & Development Policies in Idaho” by Univ. of Idaho  
[http://www.idl.idaho.gov/oil-gas/pag33\\_oil-gas.pdf](http://www.idl.idaho.gov/oil-gas/pag33_oil-gas.pdf)
  - ▶ Idaho Oil & Gas Conservation Commission  
<http://www.idl.idaho.gov/oil-gas/commission/index.html>
  - ▶ Idaho Oil & Gas Regulation  
<http://www.idl.idaho.gov/oil-gas/regulatory/index.html>
  - ▶ “Compulsory Pooling and the Landowner that has not signed an oil and gas lease” by Michigan State University  
[http://firm.msue.msu.edu/uploads/files/Leasing\\_and\\_Rental\\_Arrangements/Compulsory\\_Pooling\\_Fact\\_Sheet\\_3-15-2013.pdf](http://firm.msue.msu.edu/uploads/files/Leasing_and_Rental_Arrangements/Compulsory_Pooling_Fact_Sheet_3-15-2013.pdf)
  - ▶ “Compulsory Pooling Laws: Protecting the Conflicting Rights of Neighboring Landowners” by National Conference of State Legislatures  
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# Summary

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- ▶ History of Oil & Gas in Idaho
  - ▶ Legal Framework
  - ▶ Split Estates
  - ▶ Rule of Capture
  - ▶ Integration
  - ▶ Taxes
  - ▶ Bonding
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Question cards are now accepted

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