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Idaho Conservation League

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6/7/16

Eric Wilson
Idaho Department of Lands
300 N 6th St.
Boise, ID 83701

Submitted via email: ewilson@idl.idaho.gov

RE: ICL Comments #1 on Rulemaking for IDAPA 20.07.02: Rules Governing the Conservation of Oil and Natural Gas in the State of Idaho

Dear Mr. Wilson:

I write today on behalf of the Idaho Conservation League, Idaho's largest state-based conservation organization. Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. With more than 25,000 supporters, we work on behalf of all Idahoans, protecting Idaho's air, water and special places. Many of our supporters reside in counties currently undergoing oil and gas development and have a deep personal interest in ensuring that new oil and gas developments are appropriately managed and regulated.

We appreciate the opportunity to comment on the Idaho Department of Land's negotiated rulemaking for IDAPA 20.07.02. Our comments today are in response to the suggestion made by IDL staff during the May 31, 2016 rulemaking session instructing ICL to submit proposed content changes in writing for consideration by IDL. These comments specifically address changes to IDAPA 20.07.02.200.04 – Location of Wells.

First, the proposed rule prohibits the construction of oil or gas wells within three hundred (300) feet of an occupied structure. We believe 300 feet is an inadequate buffer distance to provide sufficient protection and peace of mind to residents adjacent to wells. We suggest using five hundred (500) feet as a minimum setback distance for oil or gas wells from occupied structures. This sentiment was widely supported during the May 31, 2016 rulemaking session by Idaho residents and parties representing Idaho residents unable to attend. In addition, residents and Oil and Gas Commissions in neighboring states with more developed oil and gas programs, including Wyoming and Colorado, are currently

RE: Idaho Conservation League comments on Negotiated Rulemaking for IDAPA 20.07.02: Rules Governing the Conservation of Oil and Natural Gas in the State of Idaho

working to increase their setbacks to 500 and 2500 feet, respectively^{1,2}. It seems prudent that Idaho heed the lessons learned from more experienced states and follow suit in selecting greater setback distances. As Idaho's oil and gas development is still in its infancy, we believe it's sensible that IDL commit to reviewing chosen buffer distances in the next rulemaking session to determine the effectiveness of selected distances for affected residents and plan to adjust accordingly.

Second, we are concerned over the ambiguity of the term "occupied structures" and what structures would be covered under this term. IDL voiced concern that greater specificity would act to exclude certain structures. However, we feel that leaving this term vague and poorly defined promotes subjective interpretations, leading to uncertainty for all parties as to what is covered and potentially the need for undue hearings or litigation.

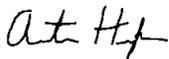
We propose including the following definition of "occupied structures" within IDAPA 20.07.02, which states:

Occupied Structure: Any structure that requires a building permit to be constructed pursuant to applicable county ordinances.

This definition provides clarity to all parties as to what does and does not constitute an occupied structure, thereby reducing the likelihood of disagreement between property owners and oil and gas operators.

Please do not hesitate to contact me at 208-345-6933 ext. 23 or ahopkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,



Austin Hopkins
Conservation Assistant

¹ See Wyoming proposes legislature changes:
<http://legisweb.state.wy.us/InterimCommittee/2015/09Appendix12-0528.pdf>

² See proposed Colorado ballot measure:
https://cogcc.state.co.us/documents/library/Technical/Miscellaneous/Init_78_Proposed_2500ft_Setback_Assessment_Report_20160527.pdf