

August 1, 2016

Tom Schultz, Director
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83702

Dear Director Schultz:

Alta Mesa and its partners have been exploring for oil and gas in Idaho since 2012. We are proud to be the state's primary operator and to have commercial production for the first time in the state's history. Alta Mesa appreciates the opportunity to participate in the Department's negotiated rulemaking. Company representatives have attended every meeting this summer and have offered verbal comments at those meetings over the course of the summer. What follows is a summation of Alta Mesa's position on some key provisions in the final version of the draft rule.

.006 PUBLIC RECORDS ACT COMPLIANCE

Alta Mesa is more than willing to provide the state with all necessary documentation for compliance with rules and statutes. However, we also support language that strengthens the ability of all companies to protect its investments from being improperly utilized by speculators and competitors.

We disagree with new language added in this section that gives the Department the ability to determine whether something is a trade secret. When a company designates a record or a portion of a record as a trade secret, the Department makes the ultimate determination as to whether the record is a trade secret. We believe the Department lacks the expertise to make that determination at this time. Until a proper process is negotiated, we feel the determination should be left to the company submitting the record. When a process is negotiated, it needs to provide for how to treat the record in the event of a disagreement between the Department and the submitting company.

.040 PERMIT PROCESSING

Alta Mesa appreciates the contemplation of imperfect permits. The additional provisions in this section provide clear expectations for both parties of what will occur in the event of an incomplete or denied permit application. In most instances, fifteen business days should be a reasonable amount of time to cure an incomplete permit. However, we suggest that the language here be modified to reflect the language in .140 and read as follows:

b. The applicant may modify incomplete or denied application. ~~The applicant must pay a new fee if the Department receives the revised application past that fifteen (15) business days. No additional application fee will be required within that 15 days, but new fees may be required if the Department receives the revised application past that 15 day deadline and the operator does not request an extension for good cause.~~

.100.05 SEISMIC EXPLORATION

Newspaper Notice: Requiring newspaper notice to those whose land will not be impacted is unnecessary. Throughout rulemaking, Department staff stated that it is their intention to bring Idaho into alignment with other states. This requirement is unique and is not done in other states. The parties starting seismic exploration are already required to notify impacted property owners. The Department states that newspaper notice is necessary for unidentified owners or residents. However, in the event that there are unidentified owners or residents, the exploration will not take place on their land anyway.

Further, the Department contends that notice to residents is necessary because of truck traffic. While seismic exploration does result in some truck traffic, it is no more than many of the other activities that occur in the exploration areas. For example, the truck traffic is far less than the traffic caused by a farmer during harvest season. Yet the state does not require the farmer to notify the public of his harvest in the newspaper. This requirement singles out one industry.

Owner Agreement and Occupant Notification: Revised language requiring surface owner agreements and notification of occupants aligns with industry custom and best practices and with the requirements that other states have taken to protect landowners. Alta Mesa agrees that it is mutually beneficial for the operator and the landowner for the landowner to have notice of seismic activities. As written, the rule provides the appropriate mechanism for notice.

.120 WELL SPACING

Standard Spacing: Alta Mesa argued strongly, and still believes, that changing the default spacing rules in any way interferes with the company's operations. That said, we accept the Department's argument that the final rules for default well spacing protect correlative rights while also maintaining a manageable system for development.

The rule also creates a 660' setback from the section line for gas wells. This should be from the unit line rather than the section line. The new setback provides far less operational flexibility than the 330' setback negotiated only two years ago.

The default spacing remains at 640 acres for gas units, and that should not change if the state wishes to develop its resources in an orderly fashion. To the extent that any changes need to be made to the existing 640-acre units based on government sections, those change in spacing must be operator-driven. As written, the rule provides that flexibility for operators who need it. For example, if an operator wants to downsize spacing for its drilling unit, the operator is free to do so under the existing rule. Similarly, an operator can propose field-wide spacing once there is sufficient data about a particular area of development.

Exceptional Well Locations: The process for obtaining an exceptional well location is overly arduous and leads to unnecessary delays in obtaining drilling permits. This is especially true when the new setbacks are taken into consideration. The vast majority of each section is now considered an exceptional location. Under that regime, Department staff should be able to issue a permit for an exceptional location in the same manner they issue permits for legal locations. Alta Mesa understands that such a process would require a statutory change, and the company is inclined to support legislation to that end.

Spacing Unit Changes: As stated above, any changes to a spacing unit should be applicant-driven. Alta Mesa supports the proposed language as it makes clear that no changes will be made without application to the Department. Maintaining a square or rectangular shape based on government survey lines will ensure that resources are not stranded.

.130 INTEGRATION

The statute lays out in detail what constitutes a “substantially complete” application, and the rule purports to augment those requirements. The requirements for the application fee and notice affidavit in rule, however, are reasonable. Alta Mesa would include those items in an application as a best practice.

.140 PROCESSING APPLICATIONS NOT LISTED IN IDAHO CODE 47-320

While Alta Mesa agrees that a pre-application meeting is a best practice, the company objects to its inclusion in rule. Not every application processed under this section will require a pre-application meeting. To do so wastes valuable staff time and Department resources. However, we do appreciate the Department’s willingness to compromise on the timeframe in which the meeting must occur. Providing for a meeting up to 20 business days prior to an application gives applicants time to plan.

.200 PERMIT TO DRILL

Permits Required: Alta Mesa appreciates the approach that Department staff took regarding drill pad construction. Drilling schedules and landowner requests often require an operator to begin building the pad itself before the permit is finalized. An operator who chooses to build before the Department finalizes the permit assumes the entire risk of such activity. The Department’s draft rule protects landowners, allows operators to work and ensures that the state is informed.

Location of Wells: The distance between a well and an existing occupied structure is a matter of private contract between the landowner and the operator. New language prohibiting a well within 300 feet of an existing occupied structure interferes with that contractual relationship. In fact, many states do not have a setback requirement at all. However, if such a setback must be included, Alta Mesa urges the Department to consider a lesser distance.

.206 SUNDRY NOTICES

Sundry notices are a critical tool for effective communication between Department staff and operators. Alta Mesa supports the language providing for sundry notices in rule.

.300 WELL SITE OPERATIONS

Wellhead Equipment: Alta Mesa supports the language added to clarify that the Department is the oversight body for wellhead equipment. The Department has the expertise to evaluate wellhead equipment and is the appropriate governmental entity to regulate and review equipment necessary for production of a single well. It is our understanding that this language makes clear that the state occupies the field for equipment necessary for production of a single well on a single well pad (as distinguished from a processing facility or a well pad with multiple wells).

.341 DRILLING LOGS

Alta Mesa objects to the inclusion of the language in this section. The requirements for cuttings and cores are not imposed anywhere else we operate, or in any other state of which we are aware. The entire section should be removed from rule.

.400 PRODUCTION REPORTS

Alta Mesa strongly objects to removing the six-month grace period for records production solely because it undermines the negotiated period of confidentiality for such records. We were assured that, through rule and statute, all production records would remain confidential for a period of one year. It is our position that those records should remain confidential for at least 2-3 years given the wildcat nature of Idaho's oil and gas play. However, the 1-year confidentiality period was the result of a prolonged negotiation between all of the industry players (including Alta Mesa competitors) and the Department. Alta Mesa respects the negotiation process and was willing to stand down when the Department proposed the one-year period. When the confidentiality period was reduced to six months via this rule change, the Department effectively retracted its previous assurances.

After much discussion during the rulemaking sessions, we understand the Department's intent and appreciate staff's need to administer the oil and gas program in an orderly fashion. Alta Mesa does not object to Department staff having the records timely, nor do we object to Department staff having necessary information to answer questions and cut down on confusion. On the contrary, Alta Mesa believes that everyone benefits when Department staff has the information they need.

The Department is proposing legislation to amend the statute in order to maintain status quo with the confidentiality period. Alta Mesa strongly supports legislation that would maintain a one-year confidentiality period for production records and opposes any attempt to reduce that agreed-upon period.

.410 METERS

Any change to the metering rules at this point is premature. Some have raised concerns about calibration of the meters as a means of ensuring accurate royalty payments. This line of inquiry confuses metering for reservoir management with metering of sales volumes. Hydrocarbon buyers provide an inherent check on sales volumes, as the buyer wants to ensure an accurate price for the hydrocarbon it is purchasing. If the volumes for sale are not accurate, the operator will be in breach of its sales contract. As a result, there is a very detailed allocation system to ensure that each hydrocarbon sold is traced back to the source well. The allocation system is what ensures that the buyer gets what it is paying for. Similarly, it provides landowners with the basis for their royalty payments. Under their lease agreements, mineral owners entitled to a royalty have the right to audit or inspect the allocations for hydrocarbons produced on their land.

As for reservoir management, Idaho's rules require regular calibration and sufficient records of that activity. In mature producing states, the calibration requirements are based on meters that have been in place for many years. As a new state, Idaho benefits from the fact that all of the equipment is new. One set of comments proposed using North Dakota's metering rules. North Dakota's rules do not make sense in Idaho as they are designed specifically for oil metering.

Should the Department wish to review metering rules in the future, the BLM's robust metering rules are more applicable and may be a good model.

.420 TANK BATTERIES

Alta Mesa objects to any increase in the setback for tank batteries. The rule does not attempt to change the setback requirement and only changes the approval process. We appreciate the Department's approach to the approval process. The new language on tank batteries reflects the potential for Department approval of locations that are outside of those governed by a contract between private parties. For matters between parties to a contract, the Department will not interfere.

.430 GAS PROCESSING FACILITIES

Setback requirements: Alta Mesa also objects to any increase in the setback for gas processing facilities, particularly as it is outside the scope of this rulemaking. Like the requirement for tank batteries, the Department has crafted reasonable language that does not interfere with private contracts.

Facility Plans: The requirement to provide the Department with the following diagrams is overly burdensome for operators: (1) piping and instrumentation diagrams; (2) process flow schematics; and (3) electronic controls and sensing schematics. These items will be made available to the Department for inspection at any time. However, an operator should not be required to provide copies of them as a matter of course or for custodial responsibility by the Department". However, an operator should not be required to provide them as a matter of course. The documents are a security matter and require an operator to produce a vast volume of records.

Sincerely,

Kate Haas
Alta Mesa