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BOISE, IDAHO

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BEFORE THE IDAHO OIL AND GAS CONSERVATION COMMISSION

In the Matter of:)	Docket No. CC-2019-OGR-01-001
)	
AM IDAHO, LLC. & ALTA MESA SERVICES,)	ADMINISTRATIVE COMPLAINT &
LP)	NOTICE OF VIOLATION
)	
Respondent.)	

This administrative complaint against AM Idaho, LLC and Alta Mesa Services, LP (collectively "Respondent" or "Alta Mesa") is filed on behalf of the Idaho Department of Lands' Oil and Gas Division ("IDL") with the Idaho Oil and Gas Conservation Commission ("Commission") pursuant to Idaho Code §§ 47-329 and 47-328(1) and (2). This complaint also serves as a notice of violation issued to Alta Mesa pursuant to Idaho Code § 47-329. As described below, IDL has identified certain alleged violations by Alta Mesa of Title 47, Chapter

3, Idaho Code, commonly known as the Oil and Gas Conservation Act, and the Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, IDAPA 20.07.02.

JURISDICTION AND AUTHORITY

1. The Commission has jurisdiction and authority over all persons and property necessary to enforce the Oil and Gas Conservation Act (“Act”). Idaho Code § 47-314(8); Idaho Code § 47-315(1).
2. The Commission has authority to make and enforce rules, regulations, and orders, and do whatever may reasonably be necessary to carry out the provisions of the Act. Idaho Code § 47-314(8); Idaho Code § 47-315(1), (8).
3. Complainant IDL has “the power to exercise, under the general control and supervision of the commission, all of the rights, powers and duties vested by law in the commission, except those provided in sections 47-328 and 47-329(3).” Idaho Code § 47-314(7).

APPLICABLE LAWS AND REGULATIONS

4. Idaho Code § 47-316 provides:
 - (1) It shall be unlawful to commence operations for the drilling or treating of a well for oil and gas without first giving notice to the commission of intention to drill or treat and without first obtaining a permit from the commission under such rules and regulations as may be reasonably prescribed by the commission and by paying to the commission a filing and service fee as provided by this section.
 - (a) Any request for a permit or authorization as set forth in subsection (3)(a), (b), (c), (d), (e), (f), (g), (m), (n) or (o) of this section shall be made by application to the department of lands, and processed as provided in this section.
...
 - (3) The department shall collect the following fees . . .
...
 - (d) Application to treat a well, if separate from an application for a permit to drill a well.....1,000

5. IDAPA 20.07.02.30.01 provides:

Written Authorization Required. Any written notice of intention to do work or to change plans previously approved must be filed with the Department, unless otherwise directed, and must be approved before the work is begun. Such approval may be given orally and, if so given, shall thereafter be confirmed by the Department in writing. Written notices may be submitted to the Department by e-mail or facsimile.

6. A well treatment is defined as “Actions performed on a well to acidize, fracture, or stimulate the target reservoir.” IDAPA 20.07.02.010.60.

7. IDAPA 20.07.02.210.01 provides in relevant part:

Application Required. . . . Approval by the Department is required prior to the well treatments being implemented. Actions to clean the casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formation are not considered to be well treatments, but operators must notify the Department when such actions occur.

8. IDAPA 20.07.02.210.01 requires an operator to submit certain listed information in any application for well treatment.

9. IDAPA 20.07.02.210.06 details reporting requirements for well treatments. A well treatment report must be submitted within thirty (30) days of the treatment and must include the information listed in IDAPA 20.07.02.210.06(a)-(h).

10. Idaho Code § 47-329(3) provides:

Any person who violates or fails to comply with any of the provisions of this chapter or any rules or orders made or promulgated hereunder may be assessed a civil penalty by the commission or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each violation and shall be liable for reasonable attorney’s fees. Each day the violation continues shall constitute a separate and additional violation, punishable by separate and additional civil penalties in like amount or other like civil penalties as determined by the commission; provided that the civil penalties do not begin to accrue until the date notice of violation and opportunity to be heard are given.

(a) Assessment of a civil penalty may be made in conjunction with any other commission administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to chapter 52, title 67, Idaho Code, which

civil penalty begins to accrue no earlier than the date notice of violation and opportunity for a hearing are given.

- (c) If the commission is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commission, it may recover such amount by action in the appropriate district court.
- (d) Any person against whom the commission has assessed a civil penalty under the provisions of this section may, within twenty-eight (28) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the commission to have occurred pursuant to chapter 52, title 67, Idaho Code.
- (e) All civil penalties collected pursuant to this section shall be remitted to the oil and gas conservation fund.

FACTS

11. IDL granted Alta Mesa an amended permit to drill a gas well named the ML Investments #1-11 on September 22, 2014. The ML Investments #1-11 well is located in a 640 acre spacing unit composed of Section 11, Township 8N, Range 4W, Boise Meridian, Payette County, Idaho, located in the Willow Field.
12. Alta Mesa is the current operator of the ML Investments #1-11.
13. Alta Mesa completed the ML Investments #1-11 well on October 17, 2014. A well completion report named the Lower Target, or "LT," producing interval as 4278-84' Measured Depth (MD). A well completion report named the Upper Target, or "UT," producing interval as 4175-85' MD.
14. On July 9, 2018, Alta Mesa submitted by e-mail a sundry notice for an acid treatment on the ML Investments #1-11 well. Alta Mesa's sundry notice checked the "acidize" box for the "type of action." In its description of the operation, Alta Mesa stated:

Attempt to pump entire treatment at 0.25 – 0.5 BPM rate

500 gal Xylene (11.9 bbls)

1000 gal (23.8 bbls) 15% HCL w/ 1.0% corr inhibitor and 2.0% iron control 0.5% clay-stay w/ 0.5% surfactant

Displace acid with 28 bbls 2% KCL water
18 bbls to displace acid to formation
10 bbls over displacement

We plan to begin this afternoon, July 9, 2018.

Alta Mesa's employee stated in the e-mail accompanying the sundry that "[w]e would like to begin this afternoon if you can get this approved for me."

15. IDL responded to Alta Mesa by e-mail within two hours. IDL cited IDAPA 20.07.02.210 and informed Alta Mesa that all well treatments require an application, fee, and review. IDL did not approve Alta Mesa's sundry notice.
16. After IDL's e-mail, Alta Mesa requested a phone call. Alta Mesa informed IDL that Alta Mesa would resubmit the sundry. Alta Mesa did not inform IDL that operations would proceed.
17. On July 10, 2018, Alta Mesa submitted by e-mail a revised sundry notice. The revised sundry added the following language:

Objective: Suspect near well bore damage. Pump acid treatment to help dissolve possible skin damage near well bore and increase well deliverability.

IDL e-mailed Alta Mesa and requested additional information, including a copy of the contractor's proposed work program, to evaluate whether the proposed operation was a well treatment that would require a permit under IDAPA 20.07.02.210.

18. On July 13, 2018, Alta Mesa's attorney informed IDL by phone that Alta Mesa had already proceeded with the well treatment. That same day, IDL sent an e-mail to Alta Mesa informing Alta Mesa that IDL had learned that Alta Mesa had proceeded with the proposed well treatment for the ML Investments #1-11 well without IDL's authorization. IDL also informed Alta Mesa that IDL had not received the information requested in IDL's July 10, 2018 e-mail; IDL then requested the same information for a second time. IDL also requested

a copy of the final report from the contractor detailing the operations performed during the entire operation. IDL gave Alta Mesa a deadline of Friday July 20, 2018 to submit these documents.

19. On July 18, 2018, IDL received an e-mail with several of the requested documents attached, including daily operations reports from July 10, 2018 to July 14, 2018 describing the well treatment that was conducted.

20. On July 20, 2018, IDL reiterated to Alta Mesa its request for additional information regarding “the method and timeline for the management, storage and disposal of well treatment fluids, including the disposal site and plans for reuse, if any” and informed Alta Mesa that the documents Alta Mesa had already provided did not appear to contain the requested information. IDL gave Alta Mesa a July 27, 2018 deadline to provide the information. Alta Mesa responded on July 20, 2018 with an e-mail summary of who provided the fluids, how the fluids arrived and were stored, and their disposal.

21. On August 3, 2018, IDL sent Alta Mesa a second e-mail request for “the final report from the contractor detailing the operations performed during the entire operation.” IDL also asked a follow up question about how the range of frac gradients for the area was calculated. IDL gave Alta Mesa an August 10, 2018 deadline to submit that information to IDL.

22. Alta Mesa responded with an August 7, 2018 e-mail informing IDL that its contractor did not do a post job report and there was no recording of the job digitally or by chart recorder. Instead, Alta Mesa monitored the analog pressure gauges and sight glasses throughout the job and recorded those numbers. Alta Mesa also provided its formula for calculating frac pressure and its employee’s July 9, 2018 summary notes of the operation. Alta Mesa additionally submitted a Safe to Perform (STP) Report form that its contractor completed

prior to starting work. The STP form indicated that it was filled out on July 9, 2018 at 7am MT.

ALLEGED VIOLATIONS

Violation One: Violation of Idaho Code § 47-316(1)(a), IDAPA 20.07.02.030, IDAPA 20.07.02.210.01

Proposed Civil Penalty Amount: \$10,000

Alta Mesa violated Idaho Code § 47-316(1)(a), IDAPA 20.07.02.030, and IDAPA 20.07.02.210.01, by performing a well treatment before applying for or obtaining IDL approval. Alta Mesa performed a well treatment because the operation in question was an action to acidize the target reservoir. While IDAPA 20.07.02.210.01 provides that well treatments are not “[a]ctions to clean the casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formations,” in this case the operation was to acidize the target reservoir and to clean the formation, not an action to clean the casing or perforations.

Alta Mesa’s own sundry notice stated that Alta Mesa’s objective was to “[p]ump acid treatment to help dissolve possible skin damage near well bore and increase well deliverability.” Therefore, Alta Mesa performed a well treatment that required an application to IDL and approval from IDL.

Alta Mesa did not get IDL approval before performing the work. Alta Mesa’s records indicate that work on the job to acidize the ML Investments #1-11 well began on July 9, 2018. On July 9, 2018, IDL cautioned Alta Mesa to review IDAPA 20.07.02.210 regarding well treatments and informed Alta Mesa that an application was needed to perform a well treatment. Alta Mesa submitted a revised sundry notice on July 10, 2018, but did not tell IDL in the sundry notice or in its correspondence that it had already performed or was currently

performing the work at issue. On July 13, 2018, Alta Mesa's attorney informed IDL that the well treatment work had already taken place. Alta Mesa was required to apply for a well treatment and obtain IDL approval before Alta Mesa performed its well treatment work. Alta Mesa failed to do so. Thus, IDL alleges Alta Mesa violated Idaho Code § 47-316(1)(a), IDAPA 20.07.02.030, and IDAPA 20.07.02.210.01.

Violation Two: Violation of IDAPA 20.07.02.210.06

Proposed Civil Penalty Amount: \$10,000

Alta Mesa violated IDAPA 20.07.02.210.06 by failing to submit a report on well treatment with the required items. A report on well treatment must be submitted within thirty (30) days of the treatment and must include the items listed in IDAPA 20.07.02.210.06(a)-(h). Thirty days have passed since the work was performed. Alta Mesa has not as of this date filed a report on well treatment that contains the following items: IDAPA 20.07.02.210.06(a) (the daily production of oil, gas, and water both prior to and after the operation); and IDAPA 20.07.02.210.06(d) (documentation demonstrating the chemicals used were reported to a www.fracfocus.org or another publicly accessible database approved by the Department). Thus, IDL alleges Alta Mesa violated IDAPA 20.07.02.210.06.

Total Proposed Civil Penalty: \$20,000

REQUEST FOR RELIEF

As a result of the violations alleged above, IDL requests the following relief:

- A. Order Alta Mesa to file an application, seek IDL approval, and submit all items in the required report on well treatment for the operations that have already occurred. The application shall include the fee required in Idaho Code § 47-316(3), follow the

process in Idaho Code § 47-316(1), and the application and reporting shall contain all of the requirements and follow the processes required in the Idaho Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, including IDAPA 20.07.02.030 and IDAPA 20.07.02.210.

- B. Award civil penalties of \$20,000 to IDL that IDL shall remit to the Oil and Gas Conservation Fund pursuant to Idaho Code § 47-329(3)(e).
- C. Award IDL reasonable attorney fees pursuant to Idaho Code § 47-329(3).

OPPORTUNITY TO RESPOND

This complaint also serves as a notice to Alta Mesa of its violations and notice of Alta Mesa's opportunity for a hearing as provided in Idaho Code § 47-329. Because the Department has filed this Notice of Violation with the Commission as an administrative complaint, Alta Mesa has the right to proceed directly to a formal administrative hearing before the Commission under the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. Alternatively, the Idaho Rules of Administrative Procedure of the Attorney General at IDAPA 04.11.01 encourage the use of informal proceedings, also known as settlement conferences, to settle contested cases.

If Alta Mesa decides to resolve this matter without proceeding directly to an administrative hearing, Alta Mesa can request a settlement meeting at IDL's Boise office. A request for an informal settlement meeting must be made via phone or e-mail within fourteen (14) days of receipt of this Complaint and Notice of Violation. Please contact Kristina Fugate, Deputy Attorney General, to schedule an informal settlement meeting at (208) 334-2400 or kristina.fugate@ag.idaho.gov.

The following IDL Oil and Gas Division representatives may be in attendance at the settlement meeting: Administrator, Program Manager, and Deputy Attorney General. At the settlement meeting, IDL will review the facts of this case, including any information and explanation Alta Mesa may wish to provide.

If Alta Mesa decides to forego the informal settlement meeting and request a formal administrative hearing before the Idaho Oil and Gas Conservation Commission, Alta Mesa must submit that request in writing by e-mail or letter within fourteen (14) days of receipt of this Notice of Violation. Please address requests for an administrative hearing to: Mick Thomas, Secretary to the Idaho Oil and Gas Conservation Commission at 300 N. 6th St, Suite 103, Boise, ID 83720 or mthomas@idl.idaho.gov. A failure to request an informal settlement meeting or to request a formal administrative hearing will result in IDL proceeding to a formal hearing before the Commission pursuant to Idaho Code §§ 47-328 and 47-329.

DATED this 5th day of February, 2019.



KRISTINA N. FUGATE
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of February, 2019, a true and correct copy of the foregoing document was served on the following individual(s) by the method indicated:

AM Idaho, LLC &
Alta Mesa Services, LP
c/o Michael Christian
Marcus, Christian, Hardee &
Davies, LLP
737 North 7th Street
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Certified Mail, Return Receipt
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