

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 50

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO OIL AND GAS; AMENDING SECTION 47-323, IDAHO CODE, TO PROVIDE  
2 FOR UNIT OPERATIONS, TO PROVIDE FOR HEARINGS, TO PROVIDE FOR ORDERS,  
3 TO PROVIDE FOR FINDINGS, TO PROVIDE FOR THE CONTENT OF APPLICATIONS,  
4 TO PROVIDE FOR SPECIFIED CERTIFICATION BY APPLICANTS, TO PROVIDE FOR  
5 MEANS OF SERVICE, TO PROVIDE FOR RESPONSES TO APPLICATIONS, TO PROVIDE  
6 FOR THE SCHEDULING OF HEARINGS AND NOTICE OF HEARINGS, TO PROVIDE THAT  
7 ORDERS FOR UNIT OPERATIONS MUST BE ON JUST AND REASONABLE TERMS AND  
8 CONDITIONS, TO PROVIDE THAT ORDERS SHALL INCLUDE PLANS FOR UNIT OPER-  
9 ATIONS, TO PROVIDE FOR CONTENTS OF PLANS, TO PROVIDE THAT ORDERS FOR  
10 UNIT OPERATIONS MAY PROVIDE FOR UNIT OPERATIONS OF LESS THAN THE WHOLE  
11 OF POOLS UNDER CERTAIN CONDITIONS, TO PROVIDE FOR TERMINATION AND DIS-  
12 SOLUTION OF UNIT OPERATIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS  
13 FOR UNIT OPERATIONS SHALL BECOME EFFECTIVE, TO PROVIDE FOR AMENDMENT  
14 OF ORDERS, TO PROVIDE FOR ORDERS FOR UNIT OPERATIONS OF A POOL OR POOLS  
15 OR PARTS THEREOF THAT INCLUDE UNITS CREATED BY PRIOR ORDERS, TO PROVIDE  
16 A PROCEDURE RELATING TO ALLOCATION IN SUBSEQUENT ORDERS, TO PROVIDE  
17 FOR THE APPROVAL OF ADDITIONS OR EXCLUSIONS IN UNIT AREAS UNDER CERTAIN  
18 CONDITIONS, TO PROVIDE CONDITIONS UNDER WHICH ORDERS FOR ADDITIONS OR  
19 EXCLUSIONS TO UNIT AREAS SHALL BECOME EFFECTIVE, TO PROVIDE THAT OP-  
20 ERATIONS ARE DEEMED CONDUCTED ON CERTAIN TRACTS BY OWNERS, TO PROVIDE  
21 THAT PORTIONS OF UNIT PRODUCTION ALLOCATED TO A SEPARATELY OWNED TRACT  
22 WHEN PRODUCED IS DEEMED PRODUCED FROM A WELL DRILLED ON THAT TRACT, TO  
23 PROVIDE THAT CERTAIN OPERATIONS SHALL CONSTITUTE FULFILLMENT OF CER-  
24 TAIN EXPRESSED OR IMPLIED OBLIGATIONS TO A SPECIFIED EXTENT, TO PROVIDE  
25 THAT CERTAIN PRODUCTION AND PROCEEDS OF SALE ARE DEEMED THE PROPERTY  
26 AND INCOME OF SPECIFIED PERSONS, TO PROVIDE FOR THE DURATION OF FORCE  
27 OF DIVISION ORDERS OR OTHER CONTRACTS RELATING TO A SALE OR PURCHASE OF  
28 PRODUCTION AND THE APPLICATION THEREOF, TO PROVIDE THAT CERTAIN ORDERS  
29 DO NOT RESULT IN TRANSFER OF TITLE, TO PROVIDE THAT CERTAIN PROPERTY IS  
30 DEEMED THE PROPERTY OF SPECIFIED PERSONS AND TO PROVIDE THAT THE FORMA-  
31 TION AND OPERATION OF A UNIT UNDER ORDER OF THE OIL AND GAS COMMISSION  
32 SHALL NOT BE IN VIOLATION OF CERTAIN LAW.  
33

34 Be It Enacted by the Legislature of the State of Idaho:

35 SECTION 1. That Section 47-323, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 47-323. ~~APPROVAL OF AGREEMENTS BY COMMISSION -- DEFENSE TO LITIGATION~~  
38 UNIT OPERATIONS. (1) An agreement for the unit or cooperative development or  
39 operation of a field, pool, or part thereof, may be submitted to the commis-  
40 sion for approval as being in the public interest or reasonably necessary to  
41 prevent waste or protect correlative rights. Such approval shall constitute  
42 a complete defense to any suit charging violation of any statute of the state

1 relating to trusts and monopolies on account thereof or on account of oper-  
2 ations conducted pursuant thereto. The failure to submit such an agreement  
3 to the commission for approval shall not for that reason imply or constitute  
4 evidence that the agreement or operations conducted pursuant thereto are in  
5 violation of laws relating to trusts and monopolies.

6 (2) The commission, upon its own motion or upon application of an owner,  
7 shall conduct a hearing to consider the need for unit operation of an entire  
8 pool or portion thereof, to increase ultimate recovery of oil and gas from  
9 that pool or portion thereof. The commission shall issue an order requiring  
10 unit operation if it finds that:

11 (a) Unit operation of the pool or portion thereof is reasonably neces-  
12 sary to prevent waste or to protect correlative rights;

13 (b) Unit operation of the pool or portion thereof is reasonably nec-  
14 essary for maintaining or restoring reservoir pressure, or to imple-  
15 ment cycling, water flooding, enhanced recovery, horizontal drilling,  
16 de-watering or a combination of these operations or other operations or  
17 objectives to be cooperatively pursued with the goal of increasing the  
18 ultimate recovery of oil and gas; and

19 (c) The estimated cost to conduct the unit operation will not exceed the  
20 value of the estimated recovery of additional oil and gas resulting from  
21 unit operation.

22 (3) An application for requesting an order providing for the operation  
23 as a unit of one (1) or more pools or parts thereof in a field shall contain:

24 (a) A plat map showing the proposed unit, the existing spacing units,  
25 and well(s) within the units;

26 (b) The names and addresses of all persons owning mineral interests and  
27 working interests in the proposed unit;

28 (c) An affidavit that the applicant, by certified mail, notified all  
29 persons owning unleased mineral interests and working interests in the  
30 proposed unit at least sixty (60) days prior to filing the application  
31 with the commission of the applicant's intention to make the applica-  
32 tion;

33 (d) A proposed plan of unit operations for the proposed unit that con-  
34 tains the information in subsection (5) of this section; and

35 (e) A proposed operating agreement that is consistent with the proposed  
36 plan of unit operations.

37 (4) At the time the application for unit operations is filed with the  
38 commission, the applicant shall certify that a copy of the application was  
39 served on all unleased mineral interest and working interest owners in the  
40 proposed unit. The application may be served by personal delivery or cer-  
41 tified U.S. mail, return receipt requested; provided however, if an owner  
42 cannot be located, the application may be served by publishing a notice in  
43 a newspaper of general circulation reasonably likely to give notice to the  
44 owner once a week for two (2) consecutive weeks and mailing the application  
45 to the last known address of the owner. The unleased mineral interest and  
46 working interest owners shall have twenty-one (21) days from the date of ser-  
47 vice of the application to file a response to the application with the com-  
48 mission. The commission will schedule a hearing on the application for unit  
49 operations and will give notice of the hearing to the applicant and all own-  
50 ers who file a response to the application with the commission.

1       (5) An order for a unit operation must be upon just and reasonable terms  
2 and conditions and shall prescribe a plan for unit operations that include  
3 all of the following:

4       (a) A description of the vertical and horizontal limits of the unit  
5 area;

6       (b) A statement of the nature of the operation contemplated;

7       (c) A provision for the supervision and conduct of the unit operation  
8 that designates an operator of the unit and provides a means to remove  
9 the operator and designate a successor operator;

10       (d) A provision to protect correlative rights, allocating to each sep-  
11 arately owned tract in the unit area a just and equitable share of the  
12 production that is produced and saved from the unit area, other than  
13 production used or unavoidably lost in the conduct of the unit opera-  
14 tion;

15       (e) A provision for credits and charges to adjust among working inter-  
16 est owners in the unit area for their interest in wells, tanks, pumps,  
17 machinery, materials and equipment that contribute to the unit opera-  
18 tion;

19       (f) A provision establishing how the costs of unit operation, including  
20 capital investments and costs of terminating the unit operation, shall  
21 be determined and charged to each working interest owner or the inter-  
22 est of each owner, including a provision establishing how, when and by  
23 whom the share of unit production allocated to an owner who does not pay  
24 the share of those costs charged to that owner or to the interest of that  
25 owner may be sold and the proceeds applied to the payment of that owner's  
26 share of those costs, and how accounts will be settled upon termination  
27 of the unit;

28       (g) A provision, if necessary, for carrying or otherwise financing an  
29 owner who elects to be carried or otherwise financed, which allows own-  
30 ers who carry or otherwise finance to recover up to three hundred per-  
31 cent (300%) of the unit costs attributed to an owner who elects to be  
32 carried or otherwise financed payable out of that owner's share of the  
33 production;

34       (h) A time when the unit operation is to commence and the manner in  
35 which, and the circumstances under which, the unit operation is to ter-  
36 minate and the unit is to be dissolved; and

37       (i) Additional provisions found to be appropriate to carry on the unit  
38 operation, to prevent waste and to protect correlative rights.

39       (6) An order for a unit operation may provide for a unit operation of  
40 less than the whole of a pool so long as the unit area is of size and shape rea-  
41 sonably required for that purpose and the conduct thereof will have no sig-  
42 nificant adverse effect upon other portions of the pool.

43       (7) The commission, upon its own motion or upon the application of an  
44 owner, may for good cause terminate a unit operation and dissolve the unit  
45 on just and equitable terms. If not terminated earlier, the unit operation  
46 shall terminate upon final cessation of production from the pool or unitized  
47 portion thereof, the plugging and abandonment of unit wells and facilities,  
48 and reclamation of the surface.

49       (8) An order requiring a unit operation shall not become effective un-  
50 til the plan for unit operations approved by the commission has been signed

1 and approved in writing by the owners who, under the commission's order, will  
2 be required to pay at least fifty-five percent (55%) of the costs of the unit  
3 operation, and also signed and approved in writing by the working interest  
4 owners of at least fifty-five percent (55%) of the production of the unit op-  
5 erations, and the commission has made a finding in the order that the plan for  
6 unit operations has been so approved.

7 (9) An order providing for unit operation may be amended by an order of  
8 the commission in the same manner and subject to the same conditions as an  
9 original order providing for the unit operation.

10 (10) The commission may issue an order for the unit operation of a pool  
11 or pools or parts thereof that include a unit created by a prior order of the  
12 commission or by voluntary agreement. This subsequent order, in providing  
13 for the allocation of the unit's production, must treat first the unit area  
14 previously created as a single tract and then allocate, in the same propor-  
15 tions as those specified in the prior order, the portion of the new unit's  
16 production allocated to the previous unit among the separately owned tracts  
17 included in the previously created unit area.

18 (11) The commission may approve additions to the unit of portions of a  
19 pool not previously included within the unit and may extend the unit area as  
20 reasonably necessary to prevent waste or to protect correlative rights. The  
21 commission may approve exclusions from the unit area as reasonably necessary  
22 to prevent waste or to protect correlative rights. An order adding to or ex-  
23 cluding from a unit area must be upon just and reasonable terms.

24 (a) An order that amends a plan of unit operations and adds an area  
25 to a previously established unit shall not become effective until the  
26 amended plan of unit operations has been signed and approved in writing  
27 by the owners who will be required to pay at least fifty-five percent  
28 (55%) of the costs of the unit operation in the area to be added, and  
29 also signed and approved in writing by the working interest owners of  
30 at least fifty-five percent (55%) of the production of the unit opera-  
31 tions, and the commission has made a finding in the order that the plan  
32 for unit operations has been so approved.

33 (b) An order providing for an exclusion from a unit area may not become  
34 effective until an amended plan of unit operations excluding an area  
35 from the unit has been approved in writing by the owners in the original  
36 unit area that are required to pay at least fifty-five percent (55%) of  
37 the costs of unit operations, and also approved in writing by the work-  
38 ing interest owners in the original unit area required to pay at least  
39 fifty-five percent (55%) of the production of the unit operations, and  
40 the commission has made a finding in the order that the plan for unit  
41 operations has been so approved.

42 (12) Operations, including the commencement, drilling or operation of a  
43 well upon a portion of a unit area, are deemed conducted on each separately  
44 owned tract in the unit area by the owner or owners thereof. That portion  
45 of a unit's production allocated to a separately owned tract in a unit area,  
46 when produced, is deemed produced from a well drilled on that tract. Opera-  
47 tions conducted under an order of the commission providing for a unit oper-  
48 ation shall constitute fulfillment of expressed or implied obligations of a  
49 lease or contract covering lands within the unit area to the extent that com-

1 pliance with those obligations is not possible without a further order of the  
2 commission.

3 (13) That portion of unit production allocated to a tract and the pro-  
4 ceeds of sale for that portion are deemed the property and income of the sev-  
5 eral persons to whom or to whose credit that portion is allocated or payable  
6 under the order providing for unit operation.

7 (14) A division order or other contract relating to a sale or purchase of  
8 production from a separately owned tract or combination of tracts remains in  
9 force and applies to oil and gas allocated to the tract until terminated in  
10 accordance with provisions of the order providing for unit operation, or in  
11 accordance with the terms of such division order or other contract.

12 (15) Except to the extent that all affected parties agree, an order pro-  
13 viding for unit operation does not result in a transfer of all or part of a  
14 person's title to the oil and gas rights in a tract in the unit area.

15 (16) Except to the extent that all affected parties agree, all property,  
16 whether real or personal, that may be acquired in the conduct of a unit oper-  
17 ation hereunder is deemed acquired for the account of the owners within the  
18 unit area and is deemed the property of the owners in the proportion that the  
19 expenses of the unit operation are charged.

20 (17) The formation of a unit and the operation of the unit under an order  
21 of the commission shall not be in violation of any statute of this state re-  
22 lating to trusts, monopolies, contracts or combinations in the restraint of  
23 trade.