

**From:** [J. Kahle Becker](#)  
**To:** [mike@hpk.law](mailto:mike@hpk.law); [amy@hpk.law](mailto:amy@hpk.law); [Kourtney Romine](#); [Mick Thomas](#); [External - Kristina Fugate](#); [JJ Winters](#); [James Thum](#)  
**Cc:** [Dana Gross](#); [jordan.gross](#)  
**Subject:** Filings for Docket No. CC-2023-OGR-01 -001  
**Date:** Friday, February 17, 2023 02:34:03 PM  
**Attachments:** [Motion to Continue.pdf](#)  
[Notice of Appearance - Kahle Becker for Goss.pdf](#)

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Dear Hearing Officer and the Idaho Department of Lands,

Attached for filing in this matter is my Notice of Appearance as well as a Motion to Continue. In light of the fact I was just retained and the tight filing deadlines which are in place, I wanted to get these to you as soon as possible. If there is anything else I need to do in order to ensure these filings are part of the record in this matter, please let me know. I look forward to participating in this hearing.

J. Kahle Becker  
Eagles Center  
223 N. 6th Street, # 325,  
Boise, Idaho 83702  
Phone: 208-345-8466  
Fax: (208) 906-8663  
[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)  
<http://www.kahlebeckerlaw.com>

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**J. KAHLE BECKER (ISB # 7408)**  
**Attorney at Law**  
223 N. 6<sup>th</sup> St., Suite 325  
Boise, Idaho 83702  
Phone: (208) 345-8466  
Fax: (208) 906-8663  
Email: [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)  
Attorney for Objecting Property Owners,  
Jordan A. and Dana C. Gross and Little Buddy Farm LLC

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

In the Matter of the Application of Snake River )  
Oil and Gas, LLC to Integrate Unleased ) Docket No. CC-2023-OGR-O1 -001  
Mineral Interest Owners in the Spacing Unit ) **NOTICE OF APPEARANCE**  
Consisting of Section 24, Township 8 North, )  
Range 5 West, Boise Meridian, Payette )  
County, Idaho )  
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TO: The Hearing Officer, the Department of Lands, the Idaho Oil and Gas Conservation Commission and all parties and their attorneys of record.

YOU AND EACH OF YOU please take notice that J. Kahle Becker enters his appearance, as counsel, for Objecting Property Owners, Jordan A. and Dana C. Gross and Little Buddy Farm LLC. Please direct all further correspondence, notices and pleadings as follows:

J. Kahle Becker (ISB # 7408)  
Attorney at Law  
223 N. 6<sup>th</sup> St., Suite 325  
Boise, Idaho 83702  
Phone: (208) 345-5183  
Fax: (208) 906-8663  
Email: [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)

DATED this 17<sup>th</sup> day of February 2023.

By:           /s/ J. Kahle Becker            
J. KAHLE BECKER  
Attorney for Objecting Property Owners,  
Jordan A. and Dana C. Gross and Little  
Buddy Farm LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 17<sup>th</sup> day of February 2023, a true and correct copy of the foregoing **NOTICE OF APPEARANCE** was served upon opposing counsel as follows:

Snake River Oil & Gas LLC	<u>      </u> US Mail
c/o Michael Christian Hardee, Pinol & Kracke PLLC	<u>      </u> Personal Delivery
1487 S. David Lane Boise ID 83705	<u>      </u> Facsimile
<a href="mailto:mike@hpk.law">mike@hpk.law</a>	<u>  X  </u> Email
and <a href="mailto:amy@hpk.law">amy@hpk.law</a>	

Idaho Department of Lands	<u>      </u> US Mail
Attn: Mick Thomas	<u>      </u> Personal Delivery
300 N. 6th Street, Suite 103 P.O. Box 83720 Boise, ID 83720	<u>      </u> Facsimile
e-mail: <a href="mailto:kromine@idl.idaho.gov">kromine@idl.idaho.gov</a> and <a href="mailto:mthomas@idl.idaho.gov">mthomas@idl.idaho.gov</a>	<u>  X  </u> Email

Kristina Fugate	<u>      </u> US Mail
Deputy Attorney General	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
Boise ID 83720-0010	<u>  X  </u> Email
<a href="mailto:kristina.fugate@ag.idaho.gov">kristina.fugate@ag.idaho.gov</a>	

JJ Winters	<u>      </u> US Mail
Deputy Attorney General	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
Boise ID 83720-0010	<u>  X  </u> Email
<a href="mailto:JJ.Winters@ag.idaho.gov">JJ.Winters@ag.idaho.gov</a>	

James Thum	<u>      </u> US Mail
Idaho Department of Lands	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
Boise ID 83720-0050	<u>  X  </u> Email
<a href="mailto:jthum@idl.idaho.gov">jthum@idl.idaho.gov</a>	

/s/ J. Kahle Becker  
J. KAHLE BECKER  
Attorney for Objecting Property Owners,  
Jordan A. and Dana C. Gross and Little  
Buddy Farm LLC

**J. KAHLE BECKER (ISB # 7408)**  
**Attorney at Law**  
223 N. 6<sup>th</sup> St., Suite 325  
Boise, Idaho 83702  
Phone: (208) 345-8466  
Fax: (208) 906-8663  
Email: [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)  
Attorney for Objecting Property Owners  
Jordan A. and Dana C. Gross and Little Buddy Farm LLC

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

In the Matter of the Application of Snake River )  
Oil and Gas, LLC to Integrate Unleased ) Docket No. CC-2023-OGR-O1 -001  
Mineral Interest Owners in the Spacing Unit ) **MOTION TO CONTINUE**  
Consisting of Section 24, Township 8 North, )  
Range 5 West, Boise Meridian, Payette )  
County, Idaho )  
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COME NOW, Objecting Property Owners, Jordan A. and Dana C. Gross and Little Buddy Farm LLC by and through their attorney of record, J. Kahle Becker, and pursuant to Idaho Code 47-328(d) hereby files their *Motion to Continue* as follows:

Idaho Code 47-328(d) provides in pertinent part: “The oil and gas administrator may for good cause continue any hearing.”

I was just retained today by Jordan A. and Dana C. Gross and Little Buddy Farm LLC. My clients longtime legal counsel, Givens Pursley, just informed my client of a conflict of interest which prohibited that firm from representing them in this matter. Based on the January 30 and 31, 2023 mailing and publication of notices which first informed interested property owners (once they actually received them several days later) of these proceedings, my clients promptly sought legal counsel and retained me today – February 17, 2023.

I am heading out of town this afternoon for Presidents Day weekend. My clients are getting me information to review and analyze. It would be highly prejudicial for my clients to be required to submit a brief on areas which the Hearing Officer should consider for purposes of setting factors to consider for a Just and Reasonable hearing with approximately 1 day for me to review those materials as well as to review the docket in this matter, which is already voluminous.

My clients own riparian property along the Payette River. Other property owners notified in the Application for Integration also own riparian property. *See* Exhibit A “Map of Subject Unit” to Application for Integration. There are serious issues which must be considered which could impact the water quality of the river, wetlands adjacent thereto, and these matters are squarely within the purview of factors to be considered when analyzing the application for integration. *See* I.C. 47-319 and IDAPA 20.07.02.001.03 a-f. Additionally, my client has a NW Gas Processing pipeline which traverses its property. The presence of this pipeline and the potential for the expanded use of it raises additional safety, property valuation, and water quality issues which must be considered.

Furthermore, my clients have observed flaring from other wells in surrounding areas. If the landowners who are to be integrated are to receive a royalty, they must ensure that proper accounting is taking place as well as proper compensation for the noise, light, smells, and air pollution caused by these flaring operations. The Legislature has specifically prohibited the waste of gas in Idaho Code 47-312. “The waste of oil and gas or either of them as defined in this chapter is hereby prohibited.” My clients want to make sure the gas underlying their property is not wasted and that they receive proper compensation. Analyzing this issue to provide comments on topics for the fair and reasonable factors will take time.

Formatting, analyzing, and briefing these and other issues and commenting on the applicants proposal will take time. The gas at issue has been sitting underground for millennia and applicant has been aware of its presence in the general area for at least a decade. *See* Declarations of Travis Boney and David Smith. There is simply no reason to rush into this and deprive landowners of their valuable property rights. Certainly, Applicant has not shown any reason for its delay nor can it overcome the good cause articulated herein which seeks a short term continuance to allow the parties to get up to speed.

Additionally, I am in the process of reviewing the current status of the Administrative Rules which may be applicable to this hearing. Article III Section 29 of the Idaho Constitution provides:

LEGISLATIVE RESPONSE TO ADMINISTRATIVE RULES. The legislature may review any administrative rule to ensure it is consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement or enforce. After that review, the legislature may approve or reject, in whole or in part, any rule as provided by law. Legislative approval or rejection of a rule is not subject to gubernatorial veto under section 10, article IV, of the constitution of the state of Idaho.

Idaho Code 67-5292. EXPIRATION OF ADMINISTRATIVE RULES, states:

- (1) Notwithstanding any other provision of this chapter to the contrary, every rule adopted and becoming effective after June 30, 1990, shall automatically expire on July 1 of the following year unless the rule is extended by statute. Extended rules shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each such succeeding year.
- (2) All rules adopted prior to June 30, 1990, shall expire on July 1, 1991, unless extended by statute. Thereafter, any rules which are extended shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each succeeding year.
- (3) This section is a critical and integral part of this chapter. If any portion of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall be deemed to affect all rules adopted subsequent to the effective date of this act and such rules shall be deemed null, void and of no further force and effect.

The Sine Die Report of the 2022 Legislative Session <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2022/sinedie.pdf> makes no mention of the reauthorization of the Rules found in 20.07.01 - Rules of Practice and Procedure Before the Idaho Oil and Gas

Conservation Commission or 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho. Similarly, unlike other agencies, the Oil and Gas Commission has not articulated whether its rules were reauthorized or promulgated on a temporary basis. *See* <https://ogcc.idaho.gov/rules-and-statutes/>. Therefore, while additional research is necessary, at this time it appears there may be constitutional issues which may need to be presented either in this administrative forum or an ancillary judicial forum regarding the authority of the hearing officer. *See also* Article 1 Section 1 – Inalienable Rights of Man to Protect Property and Article 1 Section 7 Idaho Constitution – Right to Trial by Jury in Civil Actions.

Additionally, at least one other objecting property owner, Mary Ann Miller, is unable to attend the hearing scheduled for March 14, 2023. *See* electronic docket at: [https://ogcc.idaho.gov/wp-content/uploads/sites/3/006\\_20230209\\_Comment-MAMiller.pdf](https://ogcc.idaho.gov/wp-content/uploads/sites/3/006_20230209_Comment-MAMiller.pdf)

In light of the short time frames at issue, Oral Argument is not Requested on this Motion.

WHEREFORE, Objecting Property Owner Goss and Little Buddy Farm LLC prays:

- 1) The hearing presently set for March 14, 2023 be vacated;
- 2) All other hearings be vacated;
- 3) All briefing deadlines be vacated, including but not limited to the requirement to submit an Opening Brief on or before February 22, 2023;
- 4) A scheduling conference be set at a date and time which permits all interested parties to work towards setting a hearing and briefing schedule which is mutually agreeable.

DATED this 17<sup>th</sup> day of February 2023.

By:                   /s/ J. Kahle Becker                    
J. KAHLE BECKER  
Attorney for Objecting Property Owners  
Jordan A. and Dana C. Gross and  
Little Buddy Farm LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 17<sup>th</sup> day of February 2023, a true and correct copy of the foregoing **MOTION TO CONTINUE** was served upon opposing counsel as follows:

Snake River Oil & Gas LLC	<u>      </u> US Mail
c/o Michael Christian Hardee, Pinol & Kracke PLLC	<u>      </u> Personal Delivery
1487 S. David Lane Boise ID 83705	<u>      </u> Facsimile
<a href="mailto:mike@hpk.law">mike@hpk.law</a>	<u>  X  </u> Email
and <a href="mailto:amy@hpk.law">amy@hpk.law</a>	

Idaho Department of Lands	<u>      </u> US Mail
Attn: Mick Thomas	<u>      </u> Personal Delivery
300 N. 6th Street, Suite 103 P.O. Box 83720 Boise, ID 83720	<u>      </u> Facsimile
e-mail: <a href="mailto:kromine@idl.idaho.gov">kromine@idl.idaho.gov</a> and <a href="mailto:mthomas@idl.idaho.gov">mthomas@idl.idaho.gov</a>	<u>  X  </u> Email

Kristina Fugate	<u>      </u> US Mail
Deputy Attorney General	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
Boise ID 83720-0010	<u>  X  </u> Email
<a href="mailto:kristina.fugate@ag.idaho.gov">kristina.fugate@ag.idaho.gov</a>	

JJ Winters	<u>      </u> US Mail
Deputy Attorney General	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
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James Thum	<u>      </u> US Mail
Idaho Department of Lands	<u>      </u> Personal Delivery
PO Box 83720	<u>      </u> Facsimile
Boise ID 83720-0050	<u>  X  </u> Email
<a href="mailto:jthum@idl.idaho.gov">jthum@idl.idaho.gov</a>	

/s/ J. Kahle Becker  
J. KAHLE BECKER  
Attorney for Objecting Property Owners,  
Jordan A. and Dana C. Gross and Little  
Buddy Farm LLC