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Subject: Docket NO. CC-2021-OGR-01-001
Date: Thursday, July 29, 2021 04:58:40 PM
Attachments: [20210729.SROG Fallon 1-11 Motion to determine CAIA's status as a non-party.pdf](#)

Hello All,

Attached please find the Motion of Applicant Snake River Oil and Gas, LLC For Order Determining That CAIA Is Not A Party from Michael Christian. If you have any issues opening the document or any questions, please feel free to contact us.

Thank you,

Morgan Burr

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Attorney for Applicant Snake River Oil and Gas, LLC

**BEFORE THE OIL AND GAS CONSERVATION COMMISSION
 STATE OF IDAHO**

<p>In the Matter of Application of Snake River Oil and Gas, LLC, for Integration of Unleased Mineral Interest Owners in the Spacing Unit Consisting of the SE ¼ of Section 10, the SW ¼ of Section 11, the NW ¼ of Section 14, and the NE ¼ of Section 15, Township 8 North, Range 5 West, Boise Meridian, Payette County, Idaho</p> <p>SNAKE RIVER OIL AND GAS, LLC, Applicant.</p> <hr/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. CC-2021-OGR-01-001</p> <p>MOTION OF APPLICANT SNAKE RIVER OIL AND GAS, LLC FOR ORDER DETERMINING THAT CAIA IS NOT A PARTY</p>
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Pursuant to IDAPA 04.11.01.260, Applicant, by its attorneys of record, moves for an order determining that Citizens Allied for Integrity and Accountability (“CAIA”) is not a party in this proceeding and may participate in this matter only as a public witness.

Persons or entities are parties to a contested case only if they fall within one of several definitions.¹ Because here CAIA opposes the application for an integration order, the closest definition of a party would be that of a “protestant.” IDAPA 04.11.01.155 defines “protestant” as follows: “Persons who oppose an application or claim or appeal *and who have a statutory right to contest* the right, license, award or authority sought by an applicant or claimant

¹ Pursuant to IDAPA 04.11.01.150 through .156, parties to contested cases include applicants, claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors.
 MOTION OF APPLICANT SNAKE RIVER OIL AND GAS, LLC FOR ORDER DETERMINING THAT CAIA IS NOT A PARTY 1

or appellant are called “protestants.” Idaho Code § 47-328(3)(b) expressly provides: “**Only an uncommitted owner in the affected unit** may file an objection or other response to the application[.]” Similarly, §47-328(3)(d) provides: “The oil and gas administrator’s decision on an application or a request for an order may be appealed to the commission **by the applicant or any owner who filed an objection or other response to the application** within the time required.” Thus, CAIA does not have a statutory right to contest the application, and as a result it is not a protestant.

To participate in this matter as a party, CAIA would have to petition to intervene. IDAPA 04.11.01.156 provides: “Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, **who are permitted to participate as parties pursuant to Rules 350 through 354** are called “intervenors.” Rules 350 through 354 govern the process of petitioning to intervene in a contested case. IDAPA 04.11.01.350 provides: “Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a **direct** and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention **to become a party.**” In other words, a person or entity does not become a party until its petition to intervene has been granted, and it may petition to intervene only if it has “a direct and substantial interest” in the proceeding. Thus, IDAPA 04.11.01.351 provides: “Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the **direct** and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it.”

CAIA has never filed a petition to intervene, so it is not a party. Moreover, it has acknowledged in several filings – in this matter and in the integration application related to the

Fallon #1-10 well -- that it is participating in a “representative capacity.”² This is a clear admission that it has no *direct* interest in the proceeding, such that it cannot become an intervenor, pursuant to the standard set forth in Rules 350 and 351.

Persons or entities not parties may participate in contested cases as “public witnesses.” IDAPA 04.11.01.355 provides: “Persons not parties and not called by a party who testify at hearing are called ‘public witnesses.’ Public witnesses do not have parties’ rights to examine witnesses *or otherwise participate in the proceedings as parties*. Public witnesses’ written or oral statements and exhibits are subject to examination and objection by parties. Subject to Rules 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analyses or detailed exhibits must comply with Rule 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties.”

CAIA is not a party. It has attempted to participate as one, without having filed a motion to intervene (and it does not appear to have the direct interest necessary to support such a motion). Applicant respectfully requests that the hearing officer issue an order determining that CAIA is not a party, under any of the definitions set forth in IDAPA 04.11.01, and as a result may participate in this matter only as a public witness, subject to the limitations set forth in Rule 355.


As a practical matter, a determination that CAIA is not a party should not substantially change the course of the proceedings, as CAIA shares counsel with the named objecting mineral owners, and he will be able to participate fully in the hearing on their behalf.

² For example, the objecting mineral owners’ opening brief in this matter includes the statement: “Citizens Allied for Integrity and Accountability (hereafter “CAIA”) is a non-profit, membership-based organization committed to the responsible development of natural resources in the State of Idaho. CAIA has members within the proposed spacing unit and *appears here in its representative capacity*.” This is an obviously *indirect* and generalized interest in the proceeding.

However, it is critical to the integrity of the process to correctly identify who is and is not properly a party to the proceeding.

DATED this 29th day of July 2021.

SMITH + MALEK, PLLC

A handwritten signature in blue ink, appearing to read "Michael Christian", is written over a horizontal line.

MICHAEL CHRISTIAN
Attorney for Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July 2021, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Kristina Fugate Deputy Attorney General P.O. Box 83720 Boise, ID 83720-0010	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input checked="" type="checkbox"/> Email: kristina.fugate@ag.idaho.gov
Joy Vega Deputy Attorney General P.O. Box 83720 Boise, ID 83720-0010	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input checked="" type="checkbox"/> Email: joy.vega@ag.idaho.gov
Mick Thomas Division Administrator Idaho Department of Lands P.O. Box 83720 Boise, ID 83720-0050	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input checked="" type="checkbox"/> Email: mthomas@idl.idaho.gov kromine@idl.idaho.gov
James Thum Idaho Department of Lands P.O. Box 83720 Boise, Idaho 83720-0050	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input checked="" type="checkbox"/> Email: jthum@idl.idaho.gov
James Piotrowski 1020 W. Main, Suite 400 P.O. Box 2864 Boise, ID 83702	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input checked="" type="checkbox"/> Email: james@idunionlaw.com molly@idunionlaw.com

<p>Anadarko Land Corp. Attn: Dale Tingen 1201 Lake Robbins Dr. The Woodlands, TX 77380</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>
<p>Brian Buffington Living Trust 2410 N. Alder Dr. Fruitland, ID 83619</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>
<p>Fruitland Capital Trust P.O. Box 981 Fruitland, ID 83619</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>
<p>Steven & Michelle Cockerum 1219 NW 16th Street Fruitland, ID 83619</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>
<p>River Ridge Estates, LLC P.O. Box 2176 Tualatin, OR 97062</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>
<p>Lynn & Kristina Larsen 1770 NW 24th Street Fruitland, ID 83619</p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:</p>

Harvey Stepp & Sandra Baker 1840 NW 24th Street Fruitland, ID 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:
Troy & Teresa O'Dell P.O. Box 1051 Fruitland, ID 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:
Douglas & Connie Dorsing P.O. Box 1005 Fruitland, ID 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:
Kevin & Margery Clevenger 1970 NW 24th Street Fruitland, ID 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:
Frandonson Family Trust 2075 Killebrew Dr. Payette, ID 83661	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:
BK Construction P.O. Box 802 Fruitland, Idaho 83619	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Certified Mail, return receipt requested <input type="checkbox"/> Overnight Delivery <input type="checkbox"/> Messenger Delivery <input type="checkbox"/> Email:

/s/ Morgan Burr
MORGAN BURR

