

From: [Mike Christian](#)
To: [Kourtney Romine](#); [Amy Hardee](#); [External - Kristina Fugate](#); [JJ Winters](#); [Mick Thomas](#); [James Thum](#); [James Piotrowski](#)
Cc: richard@weiserbrown.email
Subject: RE: Docket No. CC-2022-OGR-01-002
Date: Monday, February 13, 2023 03:17:38 PM
Attachments: [image001.png](#)
[20230213.LT Administrator Thomas Section 30.pdf](#)

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Kourtney, please see the attached letter in further response to the Continuance and Notice of Continued Hearing.

Thank you.

Michael Christian

Of Counsel

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From: Kourtney Romine <kromine@idl.idaho.gov>

Sent: Monday, February 13, 2023 12:03 PM

To: Mike Christian <mike@hpk.law>; Amy Hardee <amy@hpk.law>; External - Kristina Fugate <kristina.fugate@ag.idaho.gov>; JJ Winters <jj.winters@ag.idaho.gov>; Mick Thomas <mthomas@idl.idaho.gov>; James Thum <jtthum@idl.idaho.gov>; James Piotrowski <james@idunionlaw.com>

Subject: Docket No. CC-2022-OGR-01-002

Good afternoon,

In the Matter of the Application of Snake River Oil and Gas, LLC to integrate unleased mineral interest owners, in the spacing unit consisting of Section 30, Township 8 North, Range 4 West, Boise Meridian, Payette County, Idaho; Applicant - Snake River Oil and Gas, LLC;

Docket No. CC-2022-OGR-01-002, please see the attached document:

- Continuance and Notice of Continued Hearing

Sincerely,

Kourtney Romine

Workflow Coordinator

Idaho Department of Lands

300 N 6th Street, Suite 103

Boise, Idaho 83702

Email: kromine@idl.idaho.gov

<https://www.idl.idaho.gov>



RECEIVED
By jthum at 3:29 pm, Feb 13, 2023

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February 13, 2023

Mick Thomas
Division Administrator, Minerals, Navigable Waters, Oil & Gas
Idaho Department of Lands
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mthomas@idl.idaho.gov
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Re: Docket No. CC-2022-OGR-01-002

Dear Administrator Thomas:

In response to your order of today's date I earlier emailed a PDF file with copies of the certified mailing receipts for the post-filing mailing (of a copy of the application and a notice of the hearing and deadlines) to uncommitted owners in this matter pursuant to Idaho Code § 47-328(3)(b). As reflected on the receipts, the mailing occurred on September 2, 2022. I received the copies of the mailing receipts on September 8, 2022, and it appears I did not forward them to James Thum as was the convention for previous applications.

I respectfully submit that a continuance and reopening of the hearing in this matter for the sole purpose of receiving a single document is unnecessary, the document may be included in the record without engaging in the formality and delay of reopening the hearing, and a final order may issue without delay for the following reasons:

1. Idaho Code §47-328(3)(b) does not require that the copies of mailing receipts be supplied to the agency. It only requires that the post-application mailing to uncommitted owners be undertaken. That mailing occurred, and the uncommitted owners received the notice and due process required under the statute. Whether the applicant did or did not supply the agency with copies of the mailing receipts per its previous practice does not affect compliance with the statutory requirement.
2. The AG's rules for contested cases, IDAPA 04.11.01, do not require reopening of the hearing and additional delay under these circumstances. To the contrary, they clearly counsel

against such formality and encourage the agency to informally request information like the copy of certified mailing receipts.

a. Rule 52 of the AG's rules for contested cases directs that the rules "be liberally construed to secure just, speedy and economical determination of all issues presented to the agency." Additionally, Rule 52 provides that "[u]nless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest."

b. Rule 101 of the AG's rules states that "[u]nless prohibited by statute, the agency may provide for the use of informal procedure at *any stage* of a contested case," that "informal procedure may include individual contacts by . . . the agency staff asking for information," and that such procedures "may be conducted in writing, by telephone or television, or in person." In other words, at any stage (not only during a hearing) agency staff may simply request additional information, to comply with Rule 52's directive to reach a "just, speedy and economical determination" of the case.

c. Rule 305 of the AG's rules provides that the presiding officer "may allow any pleading to be amended or corrected or any omission to be supplied," and that "[p]leadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded." The rule has no time limit, and no requirement that corrections be supplied in the context of a hearing. If the copies of mailing receipts are considered to be part of the application (which is a pleading under Rule 220), again, the Department could simply request the document and it could be supplied informally as an amendment or correction of the application.

d. Rule 650.02 of the AG's rules provides, in pertinent part, that the record for a contested case includes all applications, and "[a]ll evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing)." The rule expressly contemplates that evidence includes exhibits offered at hearing but is *not* limited to that context. This is consistent with Rules 52, 101 and 305.

No uncommitted owner is prejudiced by the informal correction of the pleading or record by submittal of the proof of mailing, because the uncommitted owners *actually received the mailing*.

Even absent the above, as noted, Rule 52 allows for deviation from the rules where strict adherence is unnecessary. This flexibility is applicable here, where the due process interest has already been served by the actual mailing of the notice and copy of the application.

Based on the above, I respectfully request that the final order in this matter be issued without delay and future requests for this type of information be addressed informally as the procedural rules contemplate and encourage.

February 13, 2023
Page 3

Very truly yours,
HARDEE, PINOL & KRACKE, PLLC

A handwritten signature in blue ink, appearing to read "Michael Christian", with a long horizontal flourish extending to the right.

Michael Christian

cc: Richard Brown