

From: [J. Kahle Becker](#)
To: [Mike Christian](#); [Mick Thomas](#); [Kourtney Romine](#); [James Thum](#); [External - Kristina Fugate](#); [JJ Winters](#); [james@idunionlaw.com](#); [Marty Durand](#)
Subject: Re: Docket No. CC-2023-OGR-01-001
Date: Monday, March 13, 2023 11:34:00 AM
Attachments: [Gross Reply Brief 3-13-23.pdf](#)

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

All,

Attached for filing in this matter is the Gross's Reply to the Applicant's Response Brief. We look forward to seeing you all at the hearing tomorrow.

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

****CONFIDENTIALITY NOTICE: This email contains confidential information that is protected by the attorney-client and/or work product privilege, and that is exempt from disclosure under applicable law. It is intended only for the use of the individual(s) named as recipients. If you are not the intended recipient of this email, please notify the sender, please do not deliver, distribute or copy this email, or disclose its contents, or take any action in reliance on the information it contains.

From: Mike Christian <mike@hpk.law>
Sent: Friday, March 10, 2023 4:04 PM
To: mthomas@idl.idaho.gov <mthomas@idl.idaho.gov>; kromine@idl.idaho.gov <kromine@idl.idaho.gov>; jthum@idl.idaho.gov <jthum@idl.idaho.gov>; kristina.fugate@ag.idaho.gov <kristina.fugate@ag.idaho.gov>; Winters, JJ <jj.winters@ag.idaho.gov>; james@idunionlaw.com <james@idunionlaw.com>; Marty Durand <Marty@idunionlaw.com>; J. Kahle Becker <kahle@kahlebeckerlaw.com>
Subject: Docket No. CC-2023-OGR-01-001

All –

Attached is the Opposition of Applicant Snake River Oil and Gas, LLC to Motion for Disqualification.

Thank you.

Michael Christian

Of Counsel

HARDEE, PIÑOL & KRACKE, PLLC

1487 S. David Lane

Boise, ID 83705

Telephone: (208) 433-3913

Fax: (208) 342-2170

mike@hpk.law

CONFIDENTIALITY NOTICE: This e-mail is intended only for the personal and confidential use of the individual(s) named as recipients and is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521. It may contain information that is privileged, confidential and/or protected from disclosure under applicable law including, but not limited to, the attorney client privilege and/or work product doctrine. If you are not the intended recipient of this transmission, please notify the sender immediately by telephone. Do not deliver, distribute or copy this transmission, disclose its contents or take any action in reliance on the information it contains.

J. KAHLE BECKER (ISB # 7408)

Attorney at Law

223 N. 6th St., Suite 325

Boise, Idaho 83702

Phone: (208) 345-8466

Fax: (208) 906-8663

Email: 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-01 -001
Mineral Interest Owners in the Spacing Unit)	REPLY BRIEF
Consisting of Section 24, Township 8 North,)	
Range 5 West, Boise Meridian, Payette)	
County, Idaho)	
)	
)	
)	
)	

COME NOW, Objecting Property Owners, Jordan A. and Dana C. Gross and Little Buddy Farm LLC (the Gross’s) by and through their attorney of record, J. Kahle Becker, and Snake River Oil and Gas (“Snake Gas¹”) having filed their Opening and Response Briefs for review and utilization by the Oil and Gas Division Administrator of the Idaho Department of Lands (“Administrator”) in determining whether the terms and conditions of the integration order sought by Applicant Snake Oil in Docket No. CC2023-OGR-01-001 are “just and reasonable” as required by Idaho Code § 47-320(1), and files their Reply thereto as follows:

¹ Snake River Oil and Gas appears to take issue with the abbreviated reference “Snake Oil” utilized in the Gross’s opening brief.

INTRODUCTION

Snake Gas takes exception with being called out for being an out of state company exploiting a clearly unconstitutional, industry drafted, statutory scheme to make a profit, the details of which it refuses to share. Snake Gas also seeks to administratively amend the term “just and reasonable” out of Idaho Code § 47-320(1) or have those terms severely limited – where the plain language of the statute contains no such limitation. Snake Gas would have this hearing officer (or his replacement – pending a decision on the Gross’ *Motion for Disqualification*) hold that Snake Gas’s proposal in its Application is the final word on what is just and reasonable. This position is neither just nor reasonable and represents the economic principles of a form of government contrary to that established by Idaho’s founding fathers.

Unfortunately, it is clear that Idaho’s government is pursuing economic policies Snake Gas desires, while those policy makers simultaneously receive monetary support from the gas industry. *See* 2023 Lobbying Disclosure forms in support of HB 120 (amending the Oil and Gas Act to be even more one sided and industry friendly), HB 120 Sponsor Judy Boyle 2022 campaign Finance disclosure of contribution from Idaho Petroleum Marketers Association attached as Exhibit A hereto (a bill which lists the current Hearing Officer as the primary point of contact). *See also* Gross’s *Motion for Disqualification*.

The laws passed with support and coordination of the gas industry are in direct conflict with Idaho Constitution Article 1 Section 1 – Inalienable Rights of Man to Protect Property and the holding in *Chicago, M. & St. P. Ry. v. Public Utils. Comm'n*, 274 U.S. 344, 47 S. Ct. 604, 71 L. Ed. 1085, 1927 U.S. LEXIS 622 (1927) (A state has no right to require railroad companies to haul logs at a loss or without such compensation that is reasonable in view of the service demanded of them.)

What is actually offensive is that Snake Gas seeks what it views as preordained governmental approval to exercise complete and total dominion over objecting property owners' surface and mineral estates, for what are clearly submarket royalty payments. These are proceedings to determine what is "just and reasonable." The plain meaning of those conjunctive terms contemplates something wholly separate than a "take it or leave it" proposition devoid of any notion of due process.

The term "reasonable" has been defined at law as what a prudent man would engage in when conducting his own affairs. Would the average Idahoan like a drill rig parked and abandoned in their front yard for pennies on the dollar? Would the average Idahoan take 50% less than market rate for his property? Of course not, these are not reasonable proposals. The term "just" means acting or being in conformity with what is morally upright or good. The golden rule, do unto others as they do unto you, requires the Hearing Officer treat objecting property owners as equals to Snake Gas. That means they must fairly compensate the objecting property owners at market rates for both their gas underlying their property, damage to the surface estate, and provide protection in the event Snake Gas leaves a mess when their operations conclude. Setting up a situation where Idaho residents are treated as second class citizens who lose control of their valuable property rights for submarket rates is neither just nor reasonable. The Hearing Officer (or his replacement) must issue an Order that treats property owners in a manner that is both "Just" and "Reasonable." Anything less is an abuse of discretion and contrary to the plain language of Idaho Code § 47-320(1).

LEGAL ARGUMENT

1. Snake Gas's Position on the Validity of IDAPA 20.07.02 Ignores the Rules of Statutory Construction and the Recent Legislative History of the Wholesale Rejection of Administrative Rules.

The Gross' will not belabor their arguments on the procedures utilized by IDL and the Legislature to attempt to comply with Article III Section 29 of the Idaho Constitution and Idaho Code 67-5292. Those arguments are simply presented to alert the Hearing Officer of a deficiency which will likely be raised in a judicial forum. If the Hearing Officer and IDL desire to move forward with what appear to be inapplicable rules, that is their prerogative. The parties may need to revisit this issue after judicial guidance is provided.

The documents cited by the Applicant in its briefing clearly differentiate "Rules" from Rules which impose a "fee." SCR 123 – the statutory authority IDL seems to rely upon for reauthorization of IDAPA 20.07.02, only adopted "fee rules." Why the legislature elected to modify the statutorily defined term (I.C. § 67-5201(21²)) "Rule" with the limiting adjective "fee" appears to arise from a memorandum distributed to legislators which is discussed below. However, under the rules of statutory construction SCR 123 is the operative legislative pronouncement, and all of the terms in that statute must be given their usual and ordinary meaning.

The objective of statutory interpretation is to derive the intent of the legislative body that adopted the act. Statutory interpretation begins with the literal language of the statute. Provisions should not be read in isolation, but must be interpreted in the context of the entire document. The statute should be considered as a whole, and **words should be given their plain, usual, and ordinary meanings**. It should be noted that the Court must give effect to **all the words** and provisions of the statute **so that none will be void, superfluous, or redundant**. When the statutory language is unambiguous, the clearly expressed intent of the legislative body must be given effect, and the Court need not

² Snake Gas inaccurately cited Idaho Code § 67-5201(2) in its Response Brief, which is the definition of "Agency." See *Response Brief of Applicant Snake River Oil and Gas, LLC Re: Just and Reasonable Factors* at p. 2.

consider rules of statutory construction.

Reclaim Idaho v. Denney (In re Writ of Prohibition), 169 Idaho 406, 427, 497 P.3d 160, 181, 2021 Ida. LEXIS 143, *49-50, 2021 WL 3720965

Snake Gas would prefer to not give the word “fee” its usual and ordinary meaning. Snake Gas’ proposed interpretation would have a court completely disregard the word “fee” as superfluous in the same way it has no interest considering in the plain and unambiguous terms “just” and “reasonable” in Idaho Code § 47-320(1).

The confusion as to the procedure to be employed in the annual reauthorization of administrative rules appears to derive from a misinterpretation of Idaho Code 67-5224(5) and (6) which was provided to legislators in a memorandum:

Process for Approving Rules. Below, you will find a brief description on legislative actions and outcomes regarding the rules review process and contents of the Legislative Rules Review Books:

- Pending Fee Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to become final.
 - Pending Rules become final and effective *sine die* unless rejected, in whole or in part, via concurrent resolution adopted by both bodies.
 - Pending rules may be approved, in whole or in part, or rejected if determined to be inconsistent with legislative intent of the governing statute.
 - If rejected, new or amended language must be identified at a numerical or alphabetical designation within the rule and specified in the concurrent resolution.
- January 10, 2022 Memorandum To: Members of the 2022 Idaho State Legislature at 2. https://adminrules.idaho.gov/legislative_books/2022/fee/22H_Fee_ResCon.pdf

The distinction between Rules and Rules which impose a fee is derived from Idaho Code 67-5224(5) and (6) which provide:

- (5) (a) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, a pending rule shall become final and effective upon the conclusion of the legislative session at which the rule was submitted to the legislature for review, or as provided in the rule, but no pending rule adopted by an agency shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. A rule which is final and effective may be applied retroactively, as provided in the rule.
- (b) When the legislature approves a pending rule pursuant to section 67-5291, Idaho Code, the rule shall become final and effective upon adoption of the concurrent resolution or such other date specified in the concurrent resolution.

- (c) Except as set forth in sections 67-5226 and 67-5228, Idaho Code, no pending rule or portion thereof imposing a fee or charge of any kind shall become final and effective until it has been approved by concurrent resolution.
- (6) Each agency shall provide the administrative rules coordinator with a description of any pending rule or portion thereof imposing a new fee or charge or increasing an existing fee or charge, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. The administrative rules coordinator shall provide the legislature with a compilation of the descriptions provided by the agencies.

Here, the legislature was operating in uncharted waters due to its rejection of rules in previous legislative sessions. This was explained in the January 10, 2022 Memorandum supplied to legislators.

Nearly all rules published in the Legislative Rules Review books are simply re-published because the 2021 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code, **as well as not extending any effective rule on July 1 by statute as outlined in Section 67-5292**, Idaho Code. The necessary rules were re-published in the following special bulletins:

- July 21 – Temporary Rules
 - October 20 – Proposed Rules
 - December 22 – Pending Rules
- January 10, 2022 Memorandum (Emphasis added).

Idaho Code 67-5291 provides in pertinent part:

67-5291. LEGISLATIVE REVIEW OF RULES. (1)...Except as provided in section 67-5226, Idaho Code, with respect to temporary rules, every rule promulgated within the authority conferred by law, and in accordance with the provisions of chapter 52, title 67, Idaho Code, and made effective pursuant to section 67-5224(5), Idaho Code, shall remain in full force and effect until the same is rejected by concurrent resolution, **or until it expires as provided in section 67-5292**, Idaho Code, or by its own terms. (Emphasis added)

This distinction between “Fee” and regular plain old “Rules” is contradicted by the plain language of Idaho Code 67-5292 – which makes no such distinction and which contains a blanket expiration date of July 1. Thereafter, the legislature must pass a statute before a rule becomes effective – for another year.

(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.

The process has been made overly complicated due to the Legislature's rejection of rules in prior sessions and what appears to be a conflict between Idaho Code 67-5292 and Idaho Code 67-5224(5). Here, the legislature imposed a qualification on its statutory reauthorization when it passed SCR 123. Under the rules of statutory construction, and by operation of Idaho Code 67-5292, only "Fee Rules" in IDAPA 20.07.02 were adopted. The Gross' simply raise this issue to alert IDL, the Hearing Officer, and to preserve this issue for appeal or separate action to enjoin these proceedings.

2. Snake Gas's Profit Margin and Its Underlying Costs Must be Considered in Arriving at Just and Reasonable Royalty Payments – Necessitating Discovery or Other Compelled Disclosure.

Idaho's Supreme Court has made it clear that the right to due process applies to setting the rates charged by publicly regulated utilities. In the case of *Grindstone Butte Mut. Canal Co. v. Idaho Power Co.*, the Idaho Supreme Court held:

"The essentials of due process permit administrative regulation only by adherence to the fundamental principles of constitutional government. The legislature must appropriately prescribe standards of administrative action. The quasi-judicial action thus prescribed, must faithfully observe the 'rudiments of fair play. A fair and open hearing is the absolute demand of all judicial inquiry. In the field of administrative regulation it is not only vital to the validity of the regulation imposed; it is vital 'to the maintenance of public confidence in the value and soundness of this important governmental process *Morgan v. United States*, 304 U.S. 1, 14, 15, 58 S.Ct. 773, 775, 82 L.Ed. 1129; *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292, 304, 305, 57 S.Ct. 724, 81 L.Ed. 1093; *Sabre v. Rutland Railroad Co.*, 86 Vt. 347, 355, 369, 85 A. 693." *Petition of New England Telephone & Telegraph Co.*, 136 A.2d 357, 362 (Vt.1957). *Grindstone Butte Mut. Canal Co. v. Idaho Power Co.*, 98 Idaho 860, 865, 574 P.2d 902, 907, 1978 Ida. LEXIS 347, *11-12.

Again, in the case of *Intermountain Gas Co. v. Idaho Pub. Utils. Comm'n* the Idaho Supreme Court held:

Due process requires that a party to contested proceedings before the commission must be afforded a full opportunity to meet the issues" *Washington Water Power Co. v. Idaho Public Utilities Commission, supra*, 84 Idaho at 346, 372 P.2d at 411. Intermountain did not have an opportunity to meet the issue of whether the continuation of its retail sales business was in the public interest and thus the order denied it due process. *Intermountain Gas Co. v. Idaho Pub. Utils. Comm'n*, 97 Idaho 113, 129, 540 P.2d 775, 791, 1975 Ida. LEXIS 371, *45.

The statutory prohibition on discovery in Idaho Code § 47-328(3)(d), which precludes the objecting parties from understanding and “meet[ing] the issues” is a blatant attempt to deny objecting parties their right to due process. “The issues” in this hearing include the basis for the amount of royalties to be paid to surface and mineral owners, any and all terms in a proposed lease, as well as addressing the specific land use and geographical aspects of any proposed integration unit. Meeting those issues requires conducting meaningful cross examination, and preparation of objecting parties’ own expert testimony. Denying parties this right is a direct violation of the holding in *Hawkins v. Idaho Transp. Dep't*, 161 Idaho 173, 177, 384 P.3d 420, 424, 2016 Ida. App. LEXIS 132, *7-8 and the rate making cases listed above. Idaho Code § 47-328(3)(d) is clearly an unconstitutional denial of due process to parties in these Administrative proceedings.

The Idaho Supreme Court’s decision in *Intermountain Gas Co.* provides some level of insight into the type of data and expert witness testimony which is necessary in this case to determine whether Snake Gas is making a reasonable rate of return. Based on the limited information available to objecting parties and based on a review of royalty payments in other states, it appears Snake Gas is paying its surface and mineral estate owners submarket rates. Discovery

is necessary to determine if in fact the proposed well is a “wildcat” as Snake Gas alleges³ or if Snake Gas has struck paydirt and is reaping windfall profits (which get sent out of state). This type of reasoned analysis is necessary to comply with the “just and reasonable” requirements which are found in the Natural Gas Act of 1938 – which appears to be the genesis for the terms “just and reasonable” in Idaho Code § 47-320(1).

The Idaho Supreme Court relied on US Supreme Court precedent *Federal Power Commission v. Hope Natural Gas Co.* when it issued its decision in *Intermountain Gas Co.*, as to the analysis to be employed in fixing a reasonable rate of return.

Our purpose is not to analyze each step of the rate-setting process to determine whether the regulatory agency was correct in its decision, but to **look at the overall effect of the rate** fixed to determine whether **the return to the utility is reasonable and just**. As the Supreme Court of the United States stated in *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 64 S.Ct. 281, 88 L.Ed. 333 (1944):

"It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end. *Intermountain Gas Co. v. Idaho Pub. Utils. Comm'n*, 97 Idaho 113, 120, 540 P.2d 775, 782, 1975 Ida. LEXIS 371, *13-14. (Emphasis added.)

The US Supreme Court in *Federal Power Commission v. Hope Natural Gas Co.* discussed the balancing act administrative agencies are to employ in order to arrive at “just and reasonable” rates, which protect both the investor and the consumer. This is analogous to the balancing of interests between Snake Gas and the surface and mineral owners it seeks to integrate herein under Idaho Code § 47-320(1).

The rate-making process under the Act, i. e., the fixing of **"just and reasonable"** rates, involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Co.* case that "regulation does not insure that the business shall produce net revenues." 315 U.S. p. 590. But such considerations aside, the investor interest has a legitimate concern

³ See January 23, 2023 Letter from Mike Christian at p. 6 citing *Declaration of David Smith*, attached to *Application* as Exhibit B (see p. 4-5 thereof).

with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. Cf. *Chicago & Grand Trunk Ry. Co. v. Wellman*, 143 U.S. 339, 345-346. **By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks.** That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. See *Missouri ex rel. Southwestern Bell Tel. Co. v. Public Service Commission*, 262 U.S. 276, 291 (Mr. Justice Brandeis concurring).

Federal Power Com. v. Hope Natural Gas Co., 320 U.S. 591, 603, 64 S. Ct. 281, 288, 88 L. Ed. 333, 345, 1944 U.S. LEXIS 1204, *21-22 (Emphasis added).

With absolutely no data as to Snake Gas' profit margins, rates of return on capital expenditures, risk allocation, overhead, etc. it is clear Snake Gas would prefer a preordained result which shields its business practices from the public. This is highly concerning since Snake Gas makes the self-serving assessment of the valuation of the burden their operations place on objecting property owners' land:

f) Things like the market value of the nonconsenting participant mineral owner's real property are not relevant to the risk penalty at all, in my experience. The nonconsenting owner is contributing to the temporary use of the owner's mineral rights during the drilling and operating life of the well, in exchange for a pro rata share of the well's revenue. *Declaration of David Smith* at 5 (Exhibit B to *Application*).

It is clear Snake Gas would prefer to keep the compensation it pays for the temporally unlimited "temporary use" of objecting property owners real property as low as possible. Snake Gas therefore presents a lopsided view of what evidence it believes is relevant.

Moreover, it is clear Snake Gas utilizes closely aligned entities in order to get its product to market. These costs of closely aligned entities would then be deducted prior to the calculation of royalties paid to property owners. See Lease, attached to Application as Exhibit E at ¶ 3. Indeed, the easement for the Northwest Gas Processing, LLC pipeline traversing the Gross' property was

negotiated by Snake Gas's present counsel, Mike Christian, and involved meetings with persons who appear to be closely aligned or employed by Snake Gas.⁴

Applicant's reliance on its Production Report disclosures at <https://ogcc.idaho.gov/monthly-and-annual-reports/>, as required by Idaho Code § 47-324, contains redactions and no detail as to the gross or net profit Applicant receives nor does it detail the total amounts of royalties it paid. Those statutorily required disclosures are therefore nearly useless on determining whether the royalties it pays are "just and reasonable." All that can be gleaned is that Snake Gas appears to be raking in approximately \$9,000,000 per month (based on its December 2022 production report) – which clearly undercuts its arguments that this application is for a risky "Wildcat" well. With garbage in, the result of garbage out is neither "just" or "reasonable." More is required of the Applicant if there is any hope of complying with the requirements in Idaho Code § 47-320(1) and Constitutional due process requirements.

3. The Bonding Requirements Necessary to Ensure Snake River Cleans Up When its Operations Have Concluded Must Also be Fair and Reasonable.

Snake Gas has finally said out loud the thing that it had been hiding all along. Snake Gas now asserts.

Idaho Code § 6-202(7)(a)(iii) and (c) expressly exclude from the definition of a civil trespass entry or occupancy on property a "privilege or other legal right to enter, remain upon, possess or use the real property" and any "legally prescribed right to enter or remain upon the real property in question." An integration order, to the extent it allows any surface or subsurface use or occupancy, falls squarely within both of these exclusions. *Response Brief of Applicant Snake River Oil and Gas, LLC Re: Just and Reasonable Factors* at 9.

⁴ Snake Gas' claims that the Gross's are open to surface occupancy and seek to profit from the extraction of gas beneath their property due to their execution of an easement in favor of Northwest Gas Processing, LLC misrepresents the facts giving rise to the existence of this pipeline easement. In actuality certain interests were established prior to the Gross' purchase of their property, and the Gross's simply renegotiated some terms with Northwest Gas Processing, LLC.

Snake Gas on one hand encourages the Hearing Officer to utilize boilerplate conditions it has found to be acceptable in prior integration proceedings. Specifically Snake Gas proposes a factor of:

8. Does the integration order ensure that integrated owners that do not choose to participate as an owner retain the private right of action against the operator for any future harms? *Opening Brief of Applicant Snake River Oil and Gas, LLC Re: Just and Reasonable Factors at p. 2.*

However, in actuality, the passage quoted above from Page 9 of its Response Brief demonstrates Snake Gas knows this condition is meaningless. If non-consenting parties retain private rights to pursue trespassing actions against Snake Gas, but Snake Gas has a loophole based on the trespassing statute (also sponsored by Rep Judy Boyle), then in actuality, objecting property owners have no right to pursue a trespassing claim. Whether by being compelled to enter into a lease or by virtue of Idaho Code § 47-334, objecting property owners are being deprived of nearly complete and total control of their surface and mineral estates in favor of an out of state company (for submarket royalty rates).

Idaho Code § 47-334(2) allows Snake Gas the unfettered ability to trample over objecting property owner's land and prioritizes the interests of the out of state company, Snake Gas, over Idaho residents:

- (2) An owner or operator may:
 - (a) Enter onto surface land under which the owner or operator holds rights to conduct oil and gas operations; and
 - (b) Use the surface land:
 - (i) To the extent reasonably necessary to conduct oil and gas operations; and
 - (ii) Consistent with allowing the surface landowner the greatest possible use of the surface landowner's property, to the extent that the surface landowner's use does not interfere with the owner's or operator's oil and gas operations.

Therefore, it is imperative that the Hearing Officer (or his replacement) prohibit surface occupancy on non-consenting property owners, specifically preserve the right to pursue statutory and common law trespassing claims, and adequately protect the "deemed leased" objecting property owners

with adequate bonding requirements pursuant to his authority under Idaho Code § 47-320(1). The surface bonding requirements in Idaho Code § 47-334(8) of \$6,000 per well are simply pocket change to an entity producing \$9,000,000 of gas per month and violate Idaho Constitution Article 1 Section 1 – Inalienable Rights of Man to Protect Property and *Chicago, M. & St. P. Ry. v. Public Utils. Comm'n*, 274 U.S. 344, 47 S. Ct. 604, 71 L. Ed. 1085, 1927 U.S. LEXIS 622 (1927). There are no statutory prohibitions on conditioning operations on performance bonds and Idaho Code § 47-320(1) provides authority for the Hearing Officer to do so.

CONCLUSION

The Gross's seek to be treated justly and reasonably. The Administrative momentum to issue what amount to boilerplate integration orders, with no meaningful discovery or cross examination, ignores the requirements of Idaho Code § 47-320(1) and a long line of Idaho caselaw. This process has gone off the rails and the Gross' intend to get it back on track so that their rights of due process are protected. They are prepared to file litigation to halt these proceedings and appeal any decision which does not treat them justly and reasonably as required by Idaho Code § 47-320(1).

DATED this 13th day of March 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

EXHIBIT A

STATEMENT OF PURPOSE

RS29948C1 / H0120

In 2017, the Idaho Legislature modernized Chapter 3, Title 47, Idaho Code to provide additional guidance to operators, mineral interest owners, and the state. There were significant changes to statute at that time. After five years of operating under these new guidelines, the OGCC is recommending some additional changes to provide clarity to stakeholders. These changes improve and clarify reporting guidelines for the operator, allow changes to the makeup of the commission by removing the Director of the Department of Lands as well as changing the technical requirements of commissioners to better reflect the needs in Idaho. The changes also clarify just and reasonable terms for integration. Building these terms into statute allow mineral interest owners to be made aware of these terms prior to integration as required by the U.S. district court decision CAIA vs. Schultz.

FISCAL NOTE

This legislation will have no impact on the state's General fund or any dedicated fund or federal fund because the legislation only makes technical corrections and clarifications to existing code.

Contact:

Mick Thomas
mthomas@idl.idaho.gov
(208) 519-1387
James Thum
jthum@idl.idaho.gov
(208) 334-0243

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).

Lobbyist
Martin Bilbao
599 W Bannock St
Boise, ID 83702

Business Phone: (208) 989 - 6417
Employer: Snake River Oil & Gas

LOBBYIST REPORT FORM

Filing Type
February Legislative Lobbyist Report

Printed on
3/10/2023
Report Filed on
3/5/2023 11:25 AM

Reportable Expenditures

Category	Amount Total
Advertising	\$0.00
Entertainment, Food, Refreshment	\$76.49
Living Accommodations	\$0.00
Telephone	\$0.00
Travel	\$0.00
Other Expenses or Services	\$0.00
Grand Total	\$76.49

The totals of each expenditure of more than one hundred ten dollars (\$110) for a legislator, other holder of public office, executive officials and member(s) of their household.

Expense Date	Expense Place	Notable Entity	Amount
		Grand Total	\$0.00

Subject matter of proposed legislation, the number of the Senate or House Bill, Resolution or other legislative activity in which the Lobbyist was supporting or opposing.

H.B. 120

Identify any rule, ratemaking decision, procurement, contract bid or bid process, financial services agreement or bond lobbyist was supporting or opposing.

N/A

Code Subject

- 01 Agriculture, horticulture, farming and livestock
- 02 Amusements, games, athletics and sports
- 03 Banking, finance, credit and investments
- 04 Children, minors, youth, senior citizens
- 05 Church and religion
- 06 Consumer affairs
- 07 Ecology, environment, pollution, conservation, zoning, land, and water use
- 08 Education
- 09 Elections, campaigns, voting, political parties
- 10 Equal rights, civil rights, minority affairs
- 11 Government, financing, taxation, revenue, budget, appropriations, bids, fees, funds
- 12 Government, county
- 13 Government, federal
- 14 Government, municipal
- 15 Government, special districts
- 16 Government, state
- 17 Health service, medicine, drugs and controlled substances, health insurance, hospitals
- 18 Higher Education
- 19 Housing, construction, codes
- 20 Insurance (excluding health insurance)
- 21 Labor, salaries and wages, collective bargaining
- 22 Law enforcement, courts, judges, crimes, prisons
- 23 License, permits
- 24 Liquor
- 25 Manufacturing, distribution, and services
- 26 Natural resources, forest and forest products, fisheries, mining and mining products
- 27 Public lands, parks, recreation
- 28 Social insurance, unemployment insurance, public assistance, workmen's compensation
- 29 Transportation, highways, streets and roads
- 30 Utilities, communications, television, radio, newspaper, power, CATV, gas
- 31 Other



CAMPAIGN FINANCIAL DISCLOSURE REPORT SUMMARY PAGE

C-2

SECTION 1: CANDIDATE/COMMITTEE INFORMATION			
Name of Candidate or Political Committee and Chairperson	Office Sought (if candidate)	District (if any)	
Judy Boyle	State Representative LEGISLAT	09	
Mailing Address			
Address	City	State	Zip Code
P O Box 57	Midvale	ID	83645

SECTION 2: POLITICAL TREASURER INFORMATION			
Name of Political Treasurer			
Judy Boyle			
Mailing Address			
Address	City	State	Zip Code
P O Box 57	Midvale	ID	83645

SECTION 3: TYPE OF REPORT			
Type of Filing	Reporting Period		
<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment	Start Date	End Date	
	05/01/2022	05/31/2022	

SECTION 4: SUMMARY		
	Column 1: This Period	Column 2: Calendar Year To Date
LINE 1: Cash on Hand January 1 (This Calendar Year)	\$ XXXXXX	\$ 37,448.57
LINE 2: Enter Beginning Cash Balance	\$ 38,486.09	\$ XXXXXX
LINE 3: Total Contributions (Enter amount from page 2, line 5)	\$ 3,150.00	\$ 15,200.00
LINE 4: Refund of Previous Expenditure(s) (Enter amount from page 2, line 6)	\$ 0.00	\$ 0.00
LINE 5: Subtotal (Add lines 1, 2, 3, and 4)	\$ 41,636.09	\$ 52,648.57
LINE 6: Total Expenditures (Enter amount from page 2, line 14)	\$ 19,264.93	\$ 30,277.41
LINE 7: Enter Ending Cash Balance (Subtract line 6 from line 5)	\$ 22,371.16	\$ 22,371.16
LINE 8: Outstanding Debt to Date (Enter amount from page 2, line 21)	\$ 0.00	\$ XXXXXX

Note: The closing cash balance for the current reporting period appears on the next report as the beginning cash on hand.

CERTIFICATION	
I, <u>Judy Boyle</u> , hereby certify that the information in this report is a true, complete and correct (Name of Political Treasurer) Campaign Financial Disclosure Report as required by law.	
Signature of Political Treasurer	Date Signed
Judy Boyle	12/6/2022

RETURN THIS FORM TO

Secretary of State
Elections Division
PO Box 83720
Boise, ID 83720-0080

Phone: (208) 334-2852
Fax: (208) 334-2282



CAMPAIGN FINANCIAL DISCLOSURE REPORT DETAILED SUMMARY

C-2

PAGE 2: DETAILED SUMMARY

Name of Candidate or Committee

Judy Boyle

CONTRIBUTIONS

			Total This Period
1.	Unitemized Contributions (<i>\$50 and less</i>)	Number of Contributions: 0	+ \$ 0.00
2.	Itemized Contributions (<i>Total of all Schedule A sheets</i>)		+ \$ 2,750.00
3.	In-Kind Contributions (<i>Total of all Contribution amounts from Schedule C sheets</i>)		+ \$ 400.00
4.	Loans (<i>Total of all New Loan amounts from Schedule D sheets</i>)		+ \$ 0.00
5.	Total Contributions (<i>Transfer this figure to page 1, Section 4, Line 3</i>)		= \$ 3,150.00

REFUNDS

			Total This Period
6.	Refund of Previous Expenditures(s) (<i>Total of all Schedule F sheets</i>)		\$ 0.00

EXPENDITURES

			Total This Period
7.	Unitemized Expenditures (<i>Less than \$25</i>)	Number of Expenditures: 0	+ \$ 0.00
8.	Itemized Expenditures (<i>Total of all Schedule B sheets</i>)		+ \$ 18,864.93
9.	Independent Expenditures (<i>Totaling more than \$100 made in support of or in opposition to any candidate, political committee or measure</i>)		+ \$ 0.00
10.	Electioneering Communications (<i>More than \$100</i>)		+ \$ 0.00
11.	In-Kind Expenditures (<i>Total of all Expenditure amounts from Schedule C sheets</i>)		+ \$ 400.00
12.	Loan Repayments (<i>Total of all Loan Repayment amounts from Schedule D sheets</i>)		+ \$ 0.00
13.	Credit Card and Debt Repayments (<i>Total of all Repayment amounts from Schedule E sheets</i>)		+ \$ 0.00
14.	Total Expenditures (<i>Transfer this figure to page 1, Section 4, Line 5</i>)		= \$ 19,264.93

LOANS, CREDIT CARDS, AND DEBT

			Total This Period
15.	Outstanding Balance from previous reporting period		+ \$ 0.00
16.	New Loans received during this reporting period (<i>Total of all New Loan amounts plus Accrued Interest from Schedule D sheets</i>)		+ \$ 0.00
17.	New Credit Card and Debt incurred this reporting period (<i>Total of all New Incurred Debt amounts from Schedule E sheets</i>)		+ \$ 0.00
18.	Subtotal		= \$ 0.00
19.	Repayments of Loans made during this reporting period (<i>Total of all Loan Repayment amounts from Schedule D sheets</i>)		- \$ 0.00
20.	Repayments of Credit Card and Debt this reporting period (<i>Total of all Debt Repayment amounts from Schedule E sheets</i>)		- \$ 0.00
21.	Total Outstanding Balance at close of this period (<i>Transfer this figure to page 1, Section 4, Line 7</i>)		= \$ 0.00

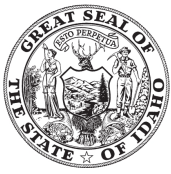


**SCHEDULE A:
ITEMIZED CONTRIBUTIONS
OF MORE THAN FIFTY DOLLARS (\$50) THIS PERIOD**

§67-6607(1a), Idaho Code

CANDIDATE/COMMITTEE INFORMATION	
Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

ITEMIZED CONTRIBUTIONS OF MORE THAN FIFTY DOLLARS (\$50) THIS PERIOD				
Date	Election Type	Contributor Name and Address	Amount	YTD Amount
5/4/2022	Primary	Idaho Chooses Life, P O Box 8172, Boise, ID, 83702	\$500.00	\$500.00
5/4/2022	Primary	Pam Sequeira, 18840 Goodson Road, Parma, ID, 83607	\$50.00	\$50.00
5/7/2022	Primary	Alan Prouty, 3425 N Sawgrass Way, Boise, ID, 83704	\$250.00	\$250.00
5/9/2022	Primary	James Smith, 2385 NE 16th Street, Fruitland, ID, 83619	\$500.00	\$500.00
5/9/2022	Primary	Idaho Petroleum Marketeers Association, PO Box 984, Boise, ID, 83701	\$250.00	\$250.00
5/10/2022	Primary	Dana Purdy, P O Box 11, New Meadows, ID, 83654	\$500.00	\$500.00
5/10/2022	Primary	Viki Purdy, P O Box 11, New Meadows, ID, 83654	\$500.00	\$500.00
5/11/2022	Primary	David Ann Frei, 124 Gray Ave, Weiser, ID, 83672	\$200.00	\$200.00
Total			\$2,750.00	



**SCHEDULE B:
ITEMIZED EXPENDITURES
OF TWENTY-FIVE DOLLARS (\$25) OR MORE THIS PERIOD**

§67-6607(1b), Idaho Code

CANDIDATE/COMMITTEE INFORMATION	
Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

ITEMIZED EXPENDITURES OF TWENTY-FIVE DOLLARS (\$25) OR MORE THIS PERIOD			
Date	Recipient Name and Address	Amount	Purpose Code(s)
5/1/2022	Jordan Marques For Senate, 10201 Payette Heights Road, Payette, ID, 83661	\$500.00	C
5/1/2022	Adams County Republican Central Committee, 201 Industrial Ave, Council, ID, 83612	\$40.00	C
5/2/2022	Spire Visuals, 1011 S Twin Lakes Ave, Middleton, ID, 83644	\$600.00	L
5/2/2022	Campo's Fast And Easy, 711 E Court St, Weiser, ID, 83672	\$65.00	A
5/3/2022	Silo Hill Media, 17281 Ustick Road, Caldwell, ID, 83607	\$1,407.00	B
5/3/2022	Campo's Fast And Easy, 711 E Court St, Weiser, ID, 83672	\$58.59	A
5/4/2022	Maverik, 274 N 16th St, Payette, ID, 83661	\$55.16	A
5/4/2022	Verizon, P.O.Box 21074, Tulsa, OK, 74121	\$182.87	U
5/5/2022	Campo's Fast And Easy, 711 E Court St, Weiser, ID, 83672	\$45.89	A
5/6/2022	Maverick, 2211 N Franklin Blvd., Nampa, ID, 83687	\$56.19	A

5/10/2022	Maverik, 416 N. Illinois, Caldwell, ID, 83605	\$64.13	A
5/10/2022	Townsquare Media, 827 E Park Blvd 100, Boise, ID, 83712	\$3,000.00	B
5/11/2022	Cumulus Boise, 1419 W Bannock, Idaho, ID, 83702	\$3,030.00	B
5/12/2022	Auto Sort, 5286 W Airway Ct., Boise, ID, 83709	\$5,417.92	L
5/12/2022	Campos Fast & Easy, 711 E Court St, Weiser, ID, 83672	\$57.88	A
5/13/2022	Hi-Tech Color, 1115 W Grove St, Boise, ID, 83702	\$2,320.34	L
5/13/2022	Campos Fast & Easy, 711 E Court St, Weiser, ID, 83672	\$55.00	A
5/14/2022	Maverik, 510 E Ustick, Caldwell, ID, 83605	\$65.12	A
5/15/2022	Campo's Sinclair, 711 E. COURT ST, WEISER, ID, 83672	\$50.00	A
5/17/2022	Jacksons Food Store, 7 E. Grove Ave., Parma, ID, 83660	\$62.38	A
5/17/2022	Campos Fast & Easy, 711 E Court St, Weiser, ID, 83672	\$51.76	A
5/18/2022	Legends, 114 E Main Street, Weiser, ID, 83672	\$69.55	F
5/18/2022	Costco, 2051 S Cole Road, Boise, ID, 83709	\$68.29	A
5/22/2022	Silo Hill Media, 17281 Ustick Road, Caldwell, ID, 83607	\$634.69	B

5/25/2022	Swatzel Strategies, Po Box 1311, Murrells Inlet, SC, 29576	\$212.89	B
5/26/2022	Bi-Mart, 1545 E 6th S, Weiser, ID, 83672	\$76.28	D
5/31/2022	Weiser Signal American, 18 East Idaho Street, Weiser, ID, 83672	\$618.00	N
Total		\$18,864.93	



SCHEDULE C: IN-KIND CONTRIBUTIONS AND EXPENDITURES

CANDIDATE/COMMITTEE INFORMATION

Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

IN-KIND CONTRIBUTIONS AND EXPENDITURES

Date	Contributor Name and Address	Recipient Name and Address	Amount	Purpose Code(s)
5/9/2022	Jim Smith, 2385 NE 16th St, Fruitland, ID, 83619	Jim Smith, 2385 NE 16th St, Fruitland, ID, 83619	\$400.00	B
Total			\$400.00	



SCHEDULE D: LOANS

CANDIDATE/COMMITTEE INFORMATION	
Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

LOANS							
Lender	Previous Balance	Loan Date	Loan Amount	Interest	Payment Date	Payment Amount	Current Balance
Totals			\$0.00	\$0.00		\$0.00	\$0.00



SCHEDULE E: CREDIT CARDS AND DEBT

CANDIDATE/COMMITTEE INFORMATION

Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

CREDIT CARDS AND DEBT

Creditor	Previous Debt Balance	Amount	Payment Date	Payment Amount	Current Debt Balance
Totals	\$0.00	\$0.00		\$0.00	\$0.00



SCHEDULE E1: CREDIT CARDS AND DEBT ITEMIZATION

CANDIDATE/COMMITTEE INFORMATION	
Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

CREDIT CARDS AND DEBT ITEMIZATION			
Date	Recipient	Amount	Code



SCHEDULE F: REFUND OF PREVIOUSLY REPORTED EXPENDITURE

CANDIDATE/COMMITTEE INFORMATION	
Name of Candidate or Political Committee and Chairperson	Reporting Period
Judy Boyle	May 2022 Report

REFUND OF PREVIOUSLY REPORTED EXPENDITURE				
Original Date Expenditure was Filed	Recipient Name and Address	Original Expenditure Amount	Purpose Code(s) Used	Amount of Refund
Give Detailed Reason for Refund				

Total

\$0.00

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 13th day of March 2023, a true and correct copy of the foregoing **REPLY BRIEF** 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
mike@hpk.law	<u> X </u> Email
and amy@hpk.law	

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: kromine@idl.idaho.gov and mthomas@idl.idaho.gov	<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
kristina.fugate@ag.idaho.gov	

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
JJ.Winters@ag.idaho.gov	

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
jthum@idl.idaho.gov	

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