

**From:** [J. Kahle Becker](#)  
**To:** [Mick Thomas](#); [JJ Winters](#); [James Thum](#); [Mike Christian](#); [James Piotrowski](#); [Kourtney Romine](#); [External - Joy M. Vega](#); [Amy Hardee](#)  
**Subject:** Docket No. CC-2023-OGR-01-001  
**Date:** Tuesday, May 23, 2023 10:53:40 AM  
**Attachments:** [Motion for Issuance of Subpoenas to IOGCC.pdf](#)  
[Request for Official Notice Reply Brief w Ex 5-23-23.pdf](#)

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Ms. Romine,

Please file in the record of this case the attached Motion for Issuance of Subpoenas and Request for Official Notice Reply Brief, which are hereby being served on the parties who have appeared in this matter to date. Additionally, I hereby request the attached Motion for Issuance of Subpoenas be filed and served directly upon the Oil and Gas Conservation Commission and/or its legal counsel to accept service of the same on their behalf. If filing this Motion directly with the OGCC requires the initiation of a new or separate proceeding, please let me know.

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Attorney for Objecting Property Owners

Jordan A. and Dana C. Gross and Little Buddy Farm, LLC

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

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	)	
Consisting of Section 24, Township 8 North,	)	<b>MOTION FOR ISSUANCE OF</b>
Range 5 West, Boise Meridian, Payette	)	<b>SUBPOENAS</b>
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 pursuant to IDAPA 04.11.01.525. SUBPOENAS (RULE 525) and I.C. §47-329(1), file their Motion for Issuance of Subpoenas as follows:

The lack of discovery, per the clearly unconstitutional Idaho Code g 47-325(3)(d), and shortened timeframes contained therein, violate Idaho appellate court precedent and has been utilized to unconstitutionally deny the Gross’ their right to due process. The single out of state Applicant, Snake River Oil and Gas, having contended the Gross’ must request the issuance of subpoenas directly from the Commission, due to the language in I.C. I.C. §47-329(1), now requires the Gross’s to file the instant Motion directly with the Commission in order to ensure the Gross’s right to due process to protect their property is maintained.

I.C. §47-329(1) provides:

POWERS OF COMMISSION — WITNESSES — PENALTY. (1) The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by the commission.

Idaho caselaw prohibits an administrative agency denying a party any mechanism for discovery in administrative proceedings, on the grounds that doing so violates due process.

Then, in *Beyer*, we **again criticized** the ITD's practice of setting a subpoena compliance date on *the day of* the hearing. *Beyer*, 155 Idaho at 47 n.7, 304 P.3d at 1213 n.7. We stated, "We continue to **strongly discourage this practice**. We see no reason for this practice except to cause a disadvantage to the driver who has the burden of proof at the ALS hearing." *Id.*

Although the rules governing administrative license suspensions do not provide a specific time frame in which subpoenas must be complied with prior to an administrative hearing, we again **admonish the ITD for engaging in such questionable practices**. The suspension of issued drivers' licenses **involves state action that adjudicates important interests of the licensees**; therefore, drivers' licenses may not be taken away without procedural due process. *Dixon v. Love*, 431 U.S. 105, 112, 97 S. Ct. 1723, 52 L. Ed. 2d 172 (1977). **The minimum constitutional due process requirements for administrative hearings are timely and adequate notice and an opportunity to be heard that is meaningful and appropriate to the nature of the case.** *Bell v. Burson*, 402 U.S. 535, 541-42, 91 S. Ct. 1586, 29 L. Ed. 2d 90 (1971). It stands to reason that to effectuate a meaningful defense against an administrative license suspension for a violation under I.C. § 18-8002A, a driver should have **sufficient prehearing access to the very evidence deemed relevant enough to warrant the issuance of a subpoena by the very administrative hearing officer deciding the case.**

*Hawkins v. Idaho Transp. Dep't*, 161 Idaho 173, 177, 384 P.3d 420, 424, 2016 Ida. App. LEXIS 132, \*7-8 (Emphasis added).

Contrary to Applicant's repeated and ongoing arguments, there is no distinction made by Idaho Appellate Courts between license suspension administrative hearings and administrative hearings in general. Due process requirements, including the right to obtain relevant evidence, apply to ALL OF THESE PROCEEDINGS!

Having been wrongfully and unconstitutionally denied the opportunity to conduct discovery, the Gross' hereby Move the Commission to issue subpoenas both for certain witnesses to attend the Evidentiary Hearing in this matter and for the production of records which provides the Gross' and other objecting parties "sufficient prehearing access to the very evidence deemed relevant" to the factors placed at issue in the Hearing Officer's April 13, 2023 *Order Determining Just and Reasonable Factors*.

The issuance of subpoenas is authorized by the Rules of Practice and Procedure, which the Hearing Officer has indicated are applicable to these proceedings (April 13, 2023 *Notice of Prehearing Conference for Evidentiary Hearing* at 2). The issuance of Subpoenas is required, if requested by a party, pursuant to *Hawkins, supra*.

IDAPA 04.11.01.525. SUBPOENAS (RULE 525). The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms.

Here, the poorly drafted, unconstitutional, and internally contradictory statutory scheme contains an ambiguity regarding the authority of the Hearing Officer (as designee of the Commission) as compared to that of the Commission itself. The Gross's believe the Hearing Officer is empowered to act as the designee of the Commission and issue subpoenas on its behalf. *See* I.C. § 67-5245 (7) "The head of the agency or his designee for the review of preliminary orders shall exercise all of the decision-making power that he would have had if the agency head had presided over the hearing." Accordingly, the Gross's have formally moved the Hearing Officer to do so. However, in order to preserve their right to challenge what appears to be an unconstitutional statutory scheme, the Gross' hereby additionally request the following subpoenas be issued directly by the Commission:

**A) For Attendance at the Evidentiary Hearing:**

- 1) Richard Brown, Snake River Oil and Gas for attendance at the Evidentiary Hearing.
- 2) David M. Smith, Snake River Oil and Gas for attendance at the Evidentiary Hearing.
- 3) Travis Boney, Snake River Oil and Gas for attendance at the Evidentiary Hearing.
- 4) Zeeshan Shaikh, Snake River Oil and Gas for attendance at the Evidentiary Hearing.
- 5) A representative of Snake River Oil and Gas knowledgeable about Snake River Oil and Gas's accounting practices for attendance at the Evidentiary Hearing.
- 6) A representative of Snake River Oil and Gas knowledgeable about Snake River Oil and Gas's leases and royalty rates paid to landowners in Payette County, Idaho for attendance at the Evidentiary Hearing.
- 7) A representative of Snake River Oil and Gas knowledgeable about the costs of drilling wells in Payette County, Idaho for attendance at the Evidentiary Hearing.
- 8) A representative of Idaho Department of Lands knowledgeable about the terms of IDL's leases with Snake River Oil and Gas, including but not limited to the lease for the public trust grounds in the unit which is subject to the current integration proceedings [*See Exhibit A to Gross' March 15, 2023 Post Hearing Brief*], for attendance at the Evidentiary Hearing.
- 9) A representative of Idaho Department of Lands knowledgeable about the payments made to IDL pursuant to any leases IDL has with Snake River Oil and Gas, including but not limited to the payments made which were produced by IDL on April 10, 2023

in an unlawfully redacted form<sup>1</sup> when IDL responded to the Gross's Public Records Request - for attendance at the Evidentiary Hearing.

10) Kellie LaBonte, PRR Coordinator, Idaho Department of Lands

11) Eric Wilson, Lands Bureau Chief – RPA

12) James Thum- Lands Program Specialist – Oil and Gas

13) Mike Murphy Lands Program Manager - Mineral, Oil and Gas, Alt Energy Leasing

Subpoenas are also requested for Production of Records prior to the Evidentiary Hearing.

These subpoenas must be issued so as to provide “sufficient prehearing access to the very evidence deemed relevant” to the factors placed at issue in the Hearing Officer’s April 13, 2023 *Order Determining Just and Reasonable Factors. Hawkins, supra*. Alternatively, if these records are not produced prior to the hearing due to a continuation of the unconstitutional denial of due process described above, these records should, at a bare minimum, be produced at the commencement of the Evidentiary Hearing in this matter.

- 1) Unredacted records of payments made to or received by IDL pursuant to any leases IDL has with Snake River Oil and Gas, including but not limited to unredacted records related to payments made by Snake River Oil and Gas which were produced by IDL on April 10, 2023 and May 19, 2023 in an unlawfully redacted form when IDL

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<sup>1</sup> IDL unlawfully redacted records it produced as to the amount of funds IDL received for selling publicly owned gas underneath public trust lands to the Applicant. *See* records attached hereto as Exhibit A. IDL wrongfully applied I.C. 74-107(2) in denying the Gross's request. I.C. 74-107(2) excludes from disclosure under the public records act (but not for evidentiary use in administrative proceedings per Idaho Code § 74-115(3).) “Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records of a **private concern or enterprise** required by law to be submitted to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.” Failure to issue the subpoenas requested herein for records related to payment of funds from a private party for PUBLIC property to a PUBLIC agency may result in a request for an injunction from a district court to halt these already unconstitutional proceedings.

responded to the Gross's Public Records Request. *See Exhibit A to Request for Official Notice Reply Brief.*

- 2) All leases Snake River Oil and Gas has entered into for or related in any way to the extraction of hydrocarbons underneath lands in the subject integration unit.
- 3) All leases Snake River Oil and Gas has entered into with landowners in Payette County, Idaho for payment of royalties in excess of 1/8 of net. Specifically, if there are leases paying royalties of 1/8 of gross, 5/32, 3/16, or higher, those should be produced.
- 4) Records related to the anticipated costs of drilling the well(s) Snake River Oil and Gas intends to drill in the subject integration unit.
- 5) Records related to Snake River Oil and Gas' profits in 2022.
- 6) Snake River Oil and Gas' tax returns for 2022.
- 7) Records related to any unity of ownership or other close corporate or contractual relationship Snake River Oil and Gas has with any entities who do or may constitute the "cost of all compressing, processing, treating, dehydrating, fractionating, gathering, transporting or marketing incurred in processing, selling or delivering the Gas or sold or used." *See Exhibit E to Application at ¶ 3b.*
- 8) Records related to payments made in 2022 for any well in Payette County to individuals or entities who do or may constitute the "cost of all compressing, processing, treating, dehydrating, fractionating, gathering, transporting or marketing incurred in processing, selling or delivering the Gas or sold or used." *See Exhibit E to Application at ¶ 3b.*
- 9) All leases Snake River Oil and Gas has entered into with landowners in Payette County Idaho for payment of royalties in excess of 1/8 calculated off the gross sales price of any hydrocarbons extracted.





**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 26<sup>th</sup> day of May 2023, a true and correct copy of the foregoing **MOTION FOR ISSUANCE OF SUBPOENA** was served upon opposing counsel as follows:

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

Idaho Department of Lands	<input type="checkbox"/> US Mail
Attn: Mick Thomas	<input type="checkbox"/> Personal Delivery
300 N. 6th Street, Suite 103 P.O. Box 83720 Boise, ID 83720	<input type="checkbox"/> 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>	<input checked="" type="checkbox"/> Email

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

James Thum	<input type="checkbox"/> US Mail
Idaho Department of Lands	<input type="checkbox"/> Personal Delivery
PO Box 83720	<input type="checkbox"/> Facsimile
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/s/ J. Kahle Becker

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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	)	<b>REQUEST FOR OFFICIAL NOTICE</b>
Consisting of Section 24, Township 8 North,	)	<b>REPLY BRIEF</b>
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 having requested the hearing officer take official notice of certain adjudicative facts pursuant to IDAPA 04.11.01.602, and the Applicant (but no other party) having Responded thereto, hereby files their Reply Brief as follows:

**LEGAL ARGUMENT**

No other property owner, nor the Idaho Department of Lands, objected to the Gross’s request for the Hearing Officer to take Official Notice of certain facts, laws, and records. This is important because IDL is the custodian of much of the information the Gross’s requested the Hearing Officer take official notice of.

The Applicant has no objection to the Gross's request to take official notice of the Applicant's lease with the State in Section 24. The Applicant seeks the opportunity to explain why those lease terms should be distinguished because they are allegedly not the product of negotiation. Therefore, there is no dispute that IDL's lease should be officially noticed.

The Applicant objects to the request to take official notice of the payments it has made to the state pursuant to other leases. The Applicant objects based on the inaccurate contention that those payments are neither relevant nor an "official act of . . . this state" based on a misinterpretation of Idaho Code § 9-101(3). In actuality, the Applicant has deliberately inverted the analysis under Idaho Code § 9-101(3) by focusing on one side of the financial transaction it has with the state of Idaho. The Idaho Department of Lands has similarly sought to shield its records from public disclosure, with a myopic misinterpretation of Idaho Code § 74-107(2), in denying in part the Gross's public records request. *See* Exhibit A. That statute excludes certain records from production in response to a public records request, not production in an administrative hearing, and provides:

(2) Production records, housing production, rental and financing records, sale or purchase records, catch records, mortgage portfolio loan documents, or similar business records **of a private concern** or enterprise **required by law to be submitted** to or inspected by a public agency or submitted to or otherwise obtained by an independent public body corporate and politic. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding. (Emphasis added).

These records are required to be submitted by contract, not by law, and relate to a public concern, not a purely private concern. More importantly, IDL has not objected to the production of these records in the context of this administrative hearing and therefore, those records should be produced and officially noticed.

IDL's denial of the Gross' Public Records Request, attached hereto as Exhibit A, is another matter which may be the subject of a separate judicial action, or combined with an overall challenge to these proceedings, which deny objecting landowners their constitutional right to due process. But

with no objection to their production herein, IDL's accounting records of its receipt of funds from Applicant should be produced and officially noticed in these proceedings.

With respect to the Applicant's erroneous objection to the production of these financial records, Idaho Code § 9-101(3) provides:

9-101. FACTS JUDICIALLY NOTICED. Courts take judicial notice of the following facts:

3. Public and private official acts of the legislative, executive and judicial departments of this state and of the United States.

Applicant seeks to misdirect the hearing officer by focusing only on its payments of royalties (and perhaps other funds) to the state (and perhaps its elected officials and/or employees [*See* Exhibit B hereto]). Applicant ignores the fact that once it puts a check to the state in the mail for payment of publicly owned gas, the state receives those funds pursuant to a contractual arrangement, must account for the receipt of those funds, and then utilize those funds in the context of the overall state budget making process. Clearly records exist accounting for the state's receipt and expenditure of these funds. Little to none of that public financial information has been provided to objecting property owners due to what appears to be a coordinated effort to shield the State's financial entanglements with the Applicant. However, where the state has a direct financial interest in these integration proceedings, due to its ownership of public trust grounds within the unit, as well as the hydrocarbons underneath it, Applicant's financial arrangements with the state are directly relevant to determining what terms are "just and reasonable" for objecting property owners.

Idaho Rule of Evidence 401 contains the test for determining what evidence is relevant in a given proceeding:

Evidence is relevant if it (a) has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.

Idaho Rule of Evidence 402 provides that relevant evidence is admissible.

First, the terms “just and reasonable” in I.C. §47-320(1) contemplate that no objecting property owners should be forced by state action to accept terms which are less favorable than those offered to or accepted by other property owners within the unit who are similarly situated. Certainly, the price other property owners are receiving will aid the hearing officer in determining whether to force objecting property owners to give up a valuable property interest for a specific price. Additionally, I.C. §47-320(3)(c) and (d) prohibit the hearing officer from authorizing integration where the Applicant proposes to pay objecting property owners payments lower than what it is paying to other owners within the unit. With no verifiable information as to what those sums are, clearly payments the Applicant has made to the State pursuant to other leases are directly relevant to matters at issue in these integration proceedings. Therefore, the Hearing Officer should require the state to produce its financial records of funds it has received from Applicant and take official notice of those records.

Applicant also objects to the Hearing Officer taking official notice of the laws of other states governing the royalty rates paid to property owners in integrated units. This position ignores Idaho Code § 9-101(2), which provides:

- 9-101. FACTS JUDICIALLY NOTICED. Courts take judicial notice of the following facts:
2. Whatever is established by law.

Applicant does not contend the laws of other states were not “established by law.” Likewise, applicant makes the red herring argument that those laws from other states are not binding within Idaho. The Gross’s make no such contention and do not assert the hearing officer is bound to adopt a specific royalty rate mandated in another state. Rather, those states laws provide guidance on what the market can bear while still allowing for the development of hydrocarbons. They are

evidence that the 1/8 of net royalty proposed by Applicant dramatically undervalues objecting property owner's interest in the pool of hydrocarbons beneath their property.

Applicant makes a relevance argument that those states' legislatures have made policy decisions different from those made by Idaho's legislators. Idaho's legislature made the policy decision to leave the terms of integration orders open for determination at each hearing on terms that are "just and reasonable." Applicant has provided no evidence that the market forces of the gas industry stop at Idaho's borders. Nor has Applicant stated why gas produced in Idaho can not be sold out of state. Whether the fact that other state's legislators mandate their citizens receive market rate by statute, as compared to crafting those royalty rates on terms that are "just and reasonable" on a case by case basis, the fact remains, what happens in other states does provide information that is relevant for consideration by the hearing officer under IRE 401. The reason being, despite bearing the burden of proof, Applicant has declined to share information as to its costs of production nor its past or anticipated return on investment.

"The customary common law rule that the moving party has the burden of proof – including not only the burden of going forward but also the burden of persuasion – is generally observed in administrative hearings." *Intermountain Health Care, Inc. v. Bd. of County Comm'rs of Blaine County*, 107 Idaho 248, 251, 688 P.2d 260, 263 (Ct. App. 1984), *rev'd on other grounds* 109 Idaho 299, 707 P.2d 410 (1985). Cited in *Findings of Fact, Conclusions of Law, and Order* in Docket No. CC-2021-OGR-01-001.

Applicant has provided no information whatsoever to adjudicate the reasonableness of its proposed 1/8 of net royalty. It is presumptuous to assume that Idaho's landowners provide a resource that is perhaps 50% less valuable than that exact same resource in a neighboring state. Therefore, those other state's laws must be judicially noticed and applicant is free thereafter to rebut those facts with its own evidence. *See* IDAPA Rule 602.

Finally, Applicant objects to taking judicial notice of a report of the Congressional Budget Office (“CBO”) by asserting that the report is not an official public or private act of the United States Congress, as contemplated by Idaho Code § 9-101(3) and the holding in *State v. Kellogg*, 102 Idaho 628, 635 (1981). This is inaccurate. The United States Court of Claims has described CBO and its purpose as follows:

Congress created the CBO in 1974. Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, 88 Stat. 297 (1974). The primary duty and function of the CBO is "to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including . . . information with respect to the budget, appropriation bills, and other bills authorizing or providing new budget authority or tax expenditures . . . ." 2 U.S.C. § 602(a). *Ind. Mun. Power Agency v. United States*, 156 Fed. Cl. 744, 749, 2021 U.S. Claims LEXIS 2447, \*11

The CBO report submitted by the Grosses is an official publication of the CBO. Additionally, Applicant’s argument is contrary to the views of other state courts who have taken judicial notice of federal CBO reports and other federal documentation under similar judicial notice state statutory schemes.

The Court takes judicial notice of the content on this government site, and those cited *infra*, as they can be "accurately and readily determined from sources whose accuracy cannot reasonably be questioned." D.R.E. 201(b)(2)); s [\*6] *ee Stafford v. State*, 2012 Del. LEXIS 136, 2012 WL 691402, at \*1 (Del. Mar. 1, 2012) (taking judicial notice of contents of a state government website); *In re Vaxart, Inc. Stockholder Litig.*, 2021 Del. Ch. LEXIS 279, 2021 WL 5858696, at \*10 (Del. Ch. Nov. 30, 2021) (taking judicial notice of various reports from government websites); *In re Kaiser Aluminum Corp.*, 456 F.3d 328, 346 (3d Cir. 2006) (taking judicial notice of a Congressional Budget Office report to support the fact that Pension Benefit Guaranty Corporation's financial health had deteriorated over time). *Lacy v. Bayhealth Med. Ctr., Inc.*, 2022 Del. Super. LEXIS 223, \*5-6, 2022 WL 1670042

Likewise, federal courts often take judicial notice of various governmental reports:

Th[e United States Court of Appeals for the Fourth Circuit] and numerous others routinely take judicial notice of information contained on state and federal



government websites." *United States v. Garcia*, 855 F.3d 615, 621 (4th Cir. 2017). Courts have determined that no reasonable dispute exists as to some information in the National Vital Statistics Reports. See *Johnson v. Mead Johnson & Co.*, Civil No. 11-225, 2013 U.S. Dist. LEXIS 26815, 2013 WL 716816, at \*2 n.4 (D. Minn. Feb. 27, 2013) (unpublished), rev'd on other grounds, 754 F.3d 557 (8th Cir. 2014). *Toppin v. United States*, 2021 U.S. Dist. LEXIS 201982, \*12-13, 2021 WL 4896045. See also *Ind. Mun. Power Agency v. United States*, 156 Fed. Cl. 744, 749, 2021 U.S. Claims LEXIS 2447, \*11

## CONCLUSION

The records, facts, and laws referenced in the Gross' *Request for Official Notice* are relevant to the factors identified at page 25 of the April 13, 2023 *Order Determining Just and Reasonable Factors*. These records, facts, and laws are necessary to ensure the Gross's right to due process in the evidentiary hearing to be conducted in this matter.

DATED this 23<sup>rd</sup> day of May 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 23<sup>rd</sup> day of May 2023, a true and correct copy of the foregoing **REQUEST FOR OFFICIAL NOTICE – REPLY BRIEF** was served upon opposing counsel as follows:

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

Idaho Department of Lands	<input type="checkbox"/> US Mail
Attn: Mick Thomas	<input type="checkbox"/> Personal Delivery
300 N. 6th Street, Suite 103 P.O. Box 83720 Boise, ID 83720	<input type="checkbox"/> 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>	<input checked="" type="checkbox"/> Email

Joy Vega	<input type="checkbox"/> US Mail
Deputy Attorney General	<input type="checkbox"/> Personal Delivery
PO Box 83720	<input type="checkbox"/> Facsimile
Boise ID 83720-0010	<input checked="" type="checkbox"/> Email
<a href="mailto:joy.vega@ag.idaho.gov">joy.vega@ag.idaho.gov</a>	

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

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

James Piotrowski	<input type="checkbox"/> US Mail
Piotrowski Durand, Pllc	<input type="checkbox"/> Personal Delivery
P.O. Box 2864	<input type="checkbox"/> Facsimile
Boise, ID 83701	<input checked="" type="checkbox"/> Email
<a href="mailto:James@idunionlaw.com">James@idunionlaw.com</a>	

/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

## Public Records Request No. 2023-0233; Response

Public Records Request <public\_records\_request@idl.idaho.gov>

Fri 5/19/2023 1:35 PM

To: J. Kahle Becker <kahle@kahlebeckerlaw.com>

Good afternoon –

On Friday, May 5, 2023, the Idaho Department of Lands (IDL) received your public records request as follows:

Under the Idaho Public Records Act § 74-101 et seq., on behalf of my clients, Jordan and Dana Gross, I am requesting copies of all records reflecting the State of Idaho's receipt of any payments made by Snake River Oil and Gas to the State of Idaho which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.

Additionally, I am requesting the official contact information for the Oil and Gas Conservation Commission and its members for service of process.

The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.

A response was provided by IDL staff on April 10, 2023 to PRR No. 2023-0152 regarding payments received by the Idaho Department of Lands as a result of leases between the State Board of Land Commissioners and Snake River Oil & Gas.

Regarding the request for “the official contact information for the Oil and Gas Conservation Commission and its members for service of process” the request is partially denied pursuant to Idaho Code § 74-106(1). Other publicly available records (although not in the custody of IDL) do exist that relate to

this part of the request including Idaho Code § 47-314(12) and Idaho Rule of Civil Procedure 4(d)(4). Additionally, the mailing address for the Commission is: Idaho Oil and Gas Conservation Commission, 300 N 6<sup>th</sup> St, Suite 103, Boise, Idaho 83702.

A Deputy Attorney General for the Idaho Department of Lands has reviewed the response to your request for “copies of all records reflecting the State of Idaho's receipt of any payments made by Snake River Oil and Gas to the State of Idaho which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas” to the extent that request was made to the Idaho Department of Lands. The Deputy Attorney General for OGCC has reviewed your request for the official contact information for the OGCC and individual Commissioners and this response pursuant to Idaho Code § 74-103(4).

Pursuant to Idaho Code § 74-115, if you feel that you are aggrieved by any partial denial of this public records request, you may institute proceedings in District Court to compel the agency to make the records available for public inspection. Any such action contesting this denial must be filed within 180 calendar days from the date of the mailing of this letter.

New public records requests should be submitted via the IDL website: <https://www.idl.idaho.gov/public-records-request>

Regards,



**Kellie LaBonte**  
**PRR Coordinator**

Idaho Department of Lands  
300 N. 6th Street, Ste 103  
Boise, ID 83702

Office: (208) 334-0214

Email: [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)

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

---

**From:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>

**Sent:** Wednesday, May 10, 2023 1:16 PM

**To:** [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)

**Subject:** Public Records Request No. 2023-0233; 10-day notice

Good afternoon –

On May 5, 2023, the Idaho Department of Lands (IDL) received a public records request as follows:

*Under the Idaho Public Records Act § 74-101 et seq., on behalf of my clients, Jordan and Dana Gross, I am requesting copies of all records reflecting the State of Idaho's receipt of any payments made by Snake River Oil and Gas to the State of Idaho which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.*

*Additionally, I am requesting the official contact information for the Oil and Gas Conservation Commission and its members for service of process.*

*The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.*

*If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.*

Pursuant to Idaho Code § 74-103(1), IDL requires ten (10) working days to research your request.

Regards,



**Kellie LaBonte**  
**PRR Coordinator**  
Idaho Department of Lands  
300 N. 6th Street, Ste 103  
Boise, ID 83702  
Office: (208) 334-0214  
Email: [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)  
<https://www.idl.idaho.gov>

---

**From:** J. Kahle Becker <[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)>

**Sent:** Friday, May 5, 2023 10:56 AM

**To:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>; JJ Winters <[jj.winters@ag.idaho.gov](mailto:jj.winters@ag.idaho.gov)>

**Subject:** Re: Public Records Request No. 2023-0152; Response

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Under the Idaho Public Records Act § 74-101 et seq., on behalf of my clients, Jordan and Dana Gross, I am requesting copies of all records reflecting the State of Idaho's receipt of any payments made by Snake River Oil and Gas to the State of Idaho which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.

Additionally, I am requesting the official contact information for the Oil and Gas Conservation Commission and its members for service of process.

The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.

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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**From:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>  
**Sent:** Monday, April 10, 2023 12:45 PM  
**To:** J. Kahle Becker <[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)>  
**Subject:** Public Records Request No. 2023-0152; Response

Good afternoon –

On March 27, 2023, the Idaho Department of Lands (IDL) received your public records request as follows:



*Under the Idaho Public Records Act § 74-101 et seq., I am requesting copies of all checks from Snake River Oil and Gas to the State of Idaho and any documentation or correspondence provided with the aforementioned checks from Snake River Oil and Gas to the State of Idaho, which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.*

*The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.*

*If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.*

IDL Staff responded to this request with responsive documents. Due to the quantity and size of the files, responsive documents may be retrieved from Dropbox via the following link:

<https://www.dropbox.com/scl/fo/niwzq33c5prtph8l67xe9/h?dl=0&rlkey=4aeh2qs6bgwts4pdkkb59mwzo>

IDL Staff stated that per retention policy, checks are retained for a period of six months.

Pursuant to Idaho Code § 74-106(3)(g)(h)(iii) and Idaho Code § 74-107(2) your request is partially denied as financial account information and production records have been redacted.

A Deputy Attorney General has reviewed your request and this response as outlined in Idaho Code § 74-103(5).

Additionally, pursuant to Idaho Code § 74-115, if you feel that you are aggrieved by any partial denial of this public records request, you may institute proceedings in District Court to compel IDL to make the records available for public inspection. Any such action contesting this denial must be filed within 180 calendar days from the date of the mailing of this letter.

Regards,



**Kellie LaBonte**  
**PRR Coordinator**  
Idaho Department of Lands  
300 N. 6th Street, Ste 103  
Boise, ID 83702  
Office: (208) 334-0214  
Email: [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)  
<https://www.idl.idaho.gov>

**From:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>  
**Sent:** Wednesday, March 29, 2023 8:37 AM  
**To:** [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)  
**Subject:** Public Records Request No. 2023-0152; 10-day notice

Good morning –

On March 27, 2023, the Idaho Department of Lands (IDL) received a public records request as follows:

*Under the Idaho Public Records Act § 74-101 et seq., I am requesting copies of all checks from Snake River Oil and Gas to the State of Idaho and any documentation or correspondence provided with the aforementioned checks from Snake River Oil and Gas to the State of Idaho, which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.*

*The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.*

*If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.*

Pursuant to Idaho Code § 74-103(1), IDL requires ten (10) working days to research your request.

Regards,



**Kellie LaBonte**  
**PRR Coordinator**  
Idaho Department of Lands  
300 N. 6th Street, Ste 103  
Boise, ID 83702  
Office: (208) 334-0214  
Email: [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)  
<https://www.idl.idaho.gov>

**From:** J. Kahle Becker <[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)>  
**Sent:** Monday, March 27, 2023 2:45 PM  
**To:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>  
**Subject:** Public Records Request

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Under the Idaho Public Records Act § 74-101 et seq., I am requesting copies of all checks from Snake River Oil and Gas to the State of Idaho and any documentation or correspondence provided with the aforementioned checks from Snake River Oil and Gas to the State of Idaho, which relate in any way to royalty payments made pursuant to leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas.

The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.

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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**From:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>  
**Sent:** Monday, March 6, 2023 1:37 PM  
**To:** J. Kahle Becker <[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)>  
**Subject:** Public Records Request No. 2023-0110; 10-day notice

Good afternoon –

On March 6, 2023, the Idaho Department of Lands (IDL) received a public records request as follows:

*Under the Idaho Public Records Act § 74-101 et seq., I am requesting copies of all leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas or its predecessor in interest, Alta Mesa. This request is meant to seek leases or other*

*documents memorializing any agreement for the extraction of oil, gas, or other hydrocarbons from lands or strata beneath either navigable rivers or endowment lands.*

*The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.*

*If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.*

Pursuant to Idaho Code § 74-103(1), IDL requires ten (10) working days to research your request.

Additionally, in accordance with Idaho Code § 74-102(10)(12), to compensate for materials and time associated with the fulfillment of this request you may be charged fees if staff time exceeds two (2) hours and/or 100 pages. IDL staff will work to estimate this potential cost and will notify you as soon as possible if there will be fees involved.

Regards,



**Kellie LaBonte**  
**PRR Coordinator**  
Idaho Department of Lands  
300 N. 6th Street, Ste 103  
Boise, ID 83702  
Office: (208) 334-0214  
Email: [public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)  
<https://www.idl.idaho.gov>

---

**From:** IDL Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>

**Sent:** Monday, March 6, 2023 12:06 PM

**To:** Public Records Request <[public\\_records\\_request@idl.idaho.gov](mailto:public_records_request@idl.idaho.gov)>

**Subject:** New Public Records Request

Full Name: Kahle Becker

Organization: J. Kahle Becker Attorney at Law

Email: [kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)

Phone Number: 208-345-8466

Mailing Address: 223 N. 6th St., Ste. 325

City: Boise

State: Idaho

Zip Code: 83702

Topic: Leases, Minerals

Records Requested: Dear Idaho Department of Lands:

Under the Idaho Public Records Act § 74-101 et seq., I am requesting copies of all leases between the State of Idaho, the Land Board and/or the Idaho Department of Lands and Snake River Oil and Gas or its predecessor in interest, Alta Mesa. This request is meant to seek leases or other documents memorializing any agreement for the extraction of oil, gas, or other hydrocarbons from lands or strata beneath either navigable rivers or endowment lands.

The Idaho Public Records Act requires a response time within three business days. If producing the records I am requesting will take longer than three days, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there is any charge associated with completing my request, please contact me so that I can arrange payment.

I look forward to receiving the information I have requested.

Sincerely,

J. Kahle Becker

---

Date: March 6, 2023

Time: 12:05 pm

Page URL: <https://www.idl.idaho.gov/public-records-request/>

User Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/110.0.0.0 Safari/537.36

Remote IP: [160.2.31.220](https://www.whois.com/whois/160.2.31.220)

Powered by: Elementor

# EXHIBIT B



# IDAHO

(<https://sos.idaho.gov/>)  
Secretary of State's Office

SEARCH CAMPAIGN FINANCE

MENU

## Activity

Activity Dates  to  2+ yrs

Search Last: [1 Day](#) [7 Days](#) [30 Days](#) [All](#)

## Activity Types

Donations  Spending  Filing

## Dollar Amounts

to

## Candidates & PACs

## Contests (Candidates Only)

Election Years



2019 to 2026

All Offices



Republican



All Stages



**Donors & Donations**



Richard W Brown PO Box 1730



All Donation Types



**Vendors & Spending**



**Reports**



SEARCH

[Your Search History](#)

Clear All Filters



Database last updated: **Today at 9:37 AM**  
(Updates occur every 4 hours.)

# Richard W Brown

Jump to: [Activity](#) [About](#)

## Donor

*In This Search...*

This donor gave **\$500** to **1 Candidate**.



Donated to Candidates

Spent by Candidates

Donated to PACs

Spent by PACs

**1 activity items for this donor.**

Sort:

Date (Newest) ▼

Download:



Share:

2022 May 12 **Richard W Brown** donated **\$500** to **Brad Little** R - 2022.P Governor.

## About Donor Richard W Brown

Donor Type

**Individual**

Address

**PO Box 1730  
Sun Valley, ID**



# IDAHO

Secretary of State's Office [\(https://sos.idaho.gov/\)](https://sos.idaho.gov/)

## SEARCH CAMPAIGN FINANCE

MENU

### Activity

Activity Dates  to  2+ yrs

Search Last: [1 Day](#) [7 Days](#) [30 Days](#) [All](#)

### Activity Types

Donations  Spending  Filing

### Dollar Amounts

\$ 1 to \$ 500000

### Candidates & PACs

### Contests (Candidates Only)

Election Years



2019 to 2026

All Offices



Republican



All Stages



**Donors & Donations**



Snake River Oil and Gas LLC PO Box 500



Snake River Oil & Gas P.O.Box 500



Snake River Oil & Gas LLC PO Box 501



All Donation Types



**Vendors & Spending**



**Reports**



SEARCH

[Your Search History](#)

[Clear All Filters](#)

Database last updated: **Today at 10:03 AM**  
(Updates occur every 4 hours.)

*In This Search...*

## 2 Donors gave **\$2,000** to 13 Candidates.

Charts:  



- Donated to Candidates
- Spent by Candidates
- Donated to PACs
- Spent by PACs

**14 activity items for this search.** Sort: Date (Newest) ▼ Download:  Share:

- 2022 Oct 29 **Snake River Oil and Gas LLC** donated **\$250** to **Mike Moyle** R - 2022 State Rep A 11.
- 2022 Oct 25 **Snake River Oil and Gas LLC** donated **\$125** to **Jaron Crane** R - 2022 State Rep B 12.
- 2022 Oct 21 **Snake River Oil and Gas LLC** donated **\$125** to **Lori Den Hartog** R - 2022 State Senator 22.
- 2022 Oct 20 **Snake River Oil and Gas LLC** donated **\$250** to **Van Burtenshaw** R - 2022 State Senator 31.
- 2022 Oct 19 **Snake River Oil and Gas LLC** donated **\$125** to **Julie VanOrden** R - 2022 State Senator 30.
- 2022 Oct 18 **Snake River Oil and Gas LLC** donated **\$125** to **Kelly Anthon** R - 2022 State Senator 27.

- 2022 Oct 18 **Snake River Oil and Gas LLC** donated **\$125** to **Laurie Lickley** R - 2022 State Senator 26.
- 2022 Oct 17 **Snake River Oil and Gas LLC** donated **\$125** to **Chris Allgood** R - 2022 State Rep B 11.
- 2022 Oct 17 **Snake River Oil and Gas LLC** donated **\$125** to **Dustin Manwaring** R - 2022 State Rep A 29.
- 2022 Oct 17 **Snake River Oil and Gas LLC** donated **\$125** to **Jim Guthrie** R - 2022 State Senator 28.
- 2022 Oct 17 **Snake River Oil and Gas LLC** donated **\$125** to **Jim Guthrie** R - 2022 State Senator 28.
- 2022 Oct 16 **Snake River Oil and Gas LLC** donated **\$125** to **Julie Yamamoto** R - 2022 State Rep A 11.
- 2022 Oct 15 **Snake River Oil and Gas LLC** donated **\$125** to **John Vanderwoude** R - 2022 State Rep A 22.
- 2022 Oct 11 **Snake River Oil & Gas** donated **\$125** to **Ronald Mendive** R - 2022 State Rep A 5.
-