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P.O. BOX 2208
SANTA FE, NEW MEXICO 87504-2208
110 NORTH GUADALUPE, SUITE 1
SANTA FE, NEW MEXICO 87501-6525

TELEPHONE (505) 988-4421
FACSIMILE (505) 983-6043

William F. Carr

wcarr@hollandhart.com

January 23, 2003

HAND-DELIVERED

Carol Leach
General Counsel
State of New Mexico
Energy, Minerals and Natural Resources Department
P. O. Box 6429
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

RECEIVED

JAN 23 2003

EMNRD-LEGAL

03 JAN 23 PM 2:59
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NATURAL CONSERVATION DIV.

Re: San Juan Coal Company's Application for a Hearing *de novo* Before the Secretary in the Application of Richardson Operating Company to Establish a special "Infill Well" Area within the Basin-Fruitland Coal Gas Pool as an Exception to Rule 4 of the Special Rules for this Pool, San Juan County, New Mexico.

Dear Ms. Leach:

Holland & Hart LLP has been retained by Richardson Operating Company ("Richardson") to serve as co-counsel with Kellahin & Kellahin in the above-referenced case. I write in response to your letter of January 13, 2002, proposing a timeline to govern the proceedings under NMSA 1978, §70-2-26, as amended.

Your January 13th letter raises some troubling issues in connection with the proposed timeline. More specifically, the proposed timeline requires that Richardson respond to the application of San Juan Coal Company ("San Juan") on "Day 3." In other words, Richardson would have less than two days to receive, review, digest, and craft a response to several complex issues, including "what is meant by a public interest," the "standard for determining the public interest" and an argument regarding "the public interest at stake in this case." This assumes, of course, that Richardson is not required to respond to other, related issues, addressed in San Juan's application, and not specifically requested in your January 13, 2003 letter – matters which San Juan Coal has had months to research and develop.

Application of Richardson Operating Co.
Record on Appeal, 2126.

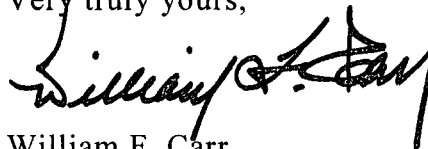
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Your proposition is practically untenable, and violative of Richardson's constitutional due process rights. Richardson's mineral rights are rights in real property. *Duvall v. Stone*, 54 N.M. 27, 32, 213 P.2d 212, 215 (1949). As such, Richardson's property rights are protected under the due process clause of the New Mexico Constitution (Art. II Sec. 18) and the United States Constitution (14th Amendment). *Uhden v. New Mexico Oil Conservation Commission*, 112 N.M. 528, 520, 817 P.2d 721, 523 (1991). Due process requires, at a minimum, a full opportunity to be heard, which necessarily includes the full opportunity to prepare. *Id.* The proposed timeline, which permits less than forty-eight hours to respond to a potentially dispositive application, desecrates due process protections.

The relevant statute, NMSA 1978, §70-2-26, as amended, creates a difficult timeline for all parties involved in this proceeding. The timeline, however, does not relieve the secretary of honoring, and indeed, advocating for, Richardson's constitutionally-granted rights. We will make our best efforts at observing the proposed timetable. But, you must know that by establishing a schedule with no overlaps that flows like a row of dominoes, you are endangering our constitutionally protected rights. We are fully prepared to defend those rights in this and other proceedings, along with the issues underlying the above-referenced case.

Very truly yours,



William F. Carr
of Holland & Hart^{LLP}



W. Thomas Kellahin
Kellahin & Kellahin

WFC:keh

cc by facsimile:

James Bruce, Esq.

Larry P. Ausherman, Esq.

Charles E. Roybal, Esq.

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*Application of Richardson Operating
Co.
Record on Appeal, 2127.*