

**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION**

**IN THE MATTER OF THE APPLICATION OF
BLUE DOLPHIN PRODUCTION, LLC FOR
COMPULSORY POOLING, RIO ARRIBA
COUNTY, NEW MEXICO**

Case No. 14629

JICARILLA APACHE NATION'S MOTION TO DISMISS

COMES NOW the Jicarilla Apache Nation (hereafter "Nation"), by and through its attorneys, and respectfully moves the Division to dismiss this action for lack of jurisdiction. In support of this Motion, the Nation states as follows:

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1. This action concerns an Application filed by Blue Dolphin Production, LLC ("Applicant"), under the laws of the State of New Mexico, for a compulsory pooling order and other relief in relation to certain lands and mineral interests that are held in trust by the United States for the Nation and located on the Jicarilla Apache Reservation ("Reservation").

2. The Nation has entered a Special Appearance in this action, but it has not consented to the jurisdiction of the Division. Nor has the Nation consented to be joined as a party to this action.

3. The Nation maintains that, for several reasons, the Division does not have jurisdiction to issue a compulsory pooling order or award other relief concerning lands and mineral interests that are held in trust by the United States for the Nation and located on the Reservation.

4. Federal and Nation law provide a comprehensive and exclusive framework for the development of Indian mineral interests on the Reservation. Under those laws, Nation consent and Secretarial approval are absolute prerequisites for any development of the Nation's mineral

assets on the Reservation. The Application is an impermissible effort to evade these prerequisites, and the Division has no authority to approve it.

5. State jurisdiction over the on-reservation mineral interests held in trust by the United States for the Nation—whether leased or unleased—is preempted by Federal and Nation law.

6. Further, Federal and Tribal sovereign immunity preclude the Division from adjudicating the interests of the United States and the Nation with respect to lands and mineral interests that are held in trust by the United States for the Nation and located on the Reservation.

7. In further support of this Motion, the Nation submits its “Memorandum of Law in Support of the Jicarilla Apache Nation’s Motion to Dismiss and in Reply to Applicant’s Response to the Nation’s Special Appearance,” and incorporates the contents of the said Memorandum as if fully set forth herein.

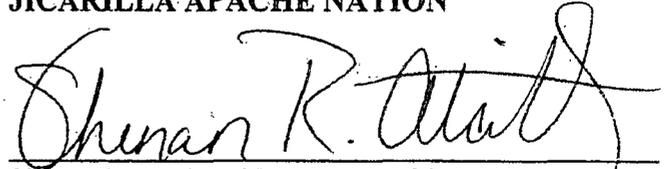
WHEREFORE, the Nation respectfully requests that the Division grant this Motion and dismiss the Application for lack of jurisdiction.

Dated: May 19, 2011

Respectfully submitted,

JICARILLA APACHE NATION

By:



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CERTIFICATE OF SERVICE

I, Walter Roybal, swear that a copy of the foregoing was sent by email attachment to the following:

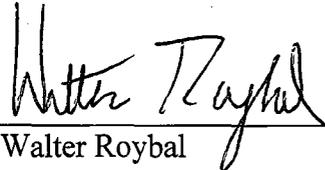
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