

**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 PRE-HEARING STATEMENT

COMES NOW the Jicarilla Apache Nation (hereafter "Nation"), by and through its attorneys, and submits this Pre-Hearing Statement, pursuant to 19.15.4.13 NAMC.

(A) Appearances

The Nation has entered a Special Appearance to Contest Jurisdiction in this action. The Nation has not consented to the jurisdiction of the Division. Nor has the Nation consented to be joined as a party to this action. The Nation's attorneys are as follows:

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(B) Concise Statement of the Case and of the Nation's Reasons for Opposing the Application

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"). The Nation opposes the issuance of the requested compulsory pooling order and all other requested relief.

The Nation has entered a Special Appearance to Contest Jurisdiction, to which Applicant has filed a Response. The Nation has filed a formal Motion to Dismiss the action for lack of jurisdiction. 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.

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. 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. 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 and part of the Reservation.

The Nation has filed a comprehensive Memorandum of Law in support of the Nation's Motion to Dismiss and in Reply to Applicant's Response to the Nation's Special Appearance. That Memorandum sets forth the Nation's reasons for opposing the issuance of the requested compulsory pooling order and all other relief sought by Applicant. The Nation hereby incorporates the contents of that Memorandum as if fully set forth herein.

(C) Witnesses

The Nation intends to call the following witnesses in opposition to the Application and in support of its Motion to Dismiss:

Sherryl Vigil, Superintendent
Jicarilla Apache Agency
Bureau of Indian Affairs
United States Department of the Interior

Dixon Sandoval, Director
Oil and Gas Administration
Jicarilla Apache Nation

(D) Approximate Time to Present the Nation's Case

The Nation anticipates that it will take two hours to present its case.

(E) Procedural Matters

The Nation has filed a Motion to Dismiss this action for lack of jurisdiction. The Nation respectfully requests that the Division consider and grant the Nation's Motion to Dismiss prior to any hearing on the Application.

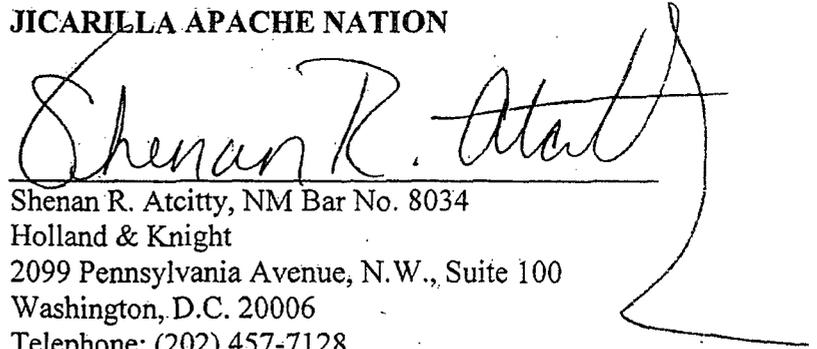
The Nation has filed a written request that the Division issue a subpoena to compel the attendance at the hearing of one witness. The testimony of this witness is necessary on the Nation's Motion to Dismiss. The Nation respectfully requests that the Division grant the Nation's written request and issue the subpoena prior to any hearing in this matter.

Dated: May 19, 2011

Respectfully submitted,

JICARILLA APACHE NATION

By:



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*Attorneys for the
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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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And Overnight Mail (2 copies) and facsimile to:

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