

Brooks, David K., EMNRD

To: jch@lchl.com; lpaushman@modrall.com; Pete Domenici; wcarr@hollandhart.com

Subject: Mr. Haas' letter of October 10

Dear Ms. Bogle and Gentlemen:

This is a response to Mr. Haas's letter of October 10, 2006 to Mr. Aushman.

I have undertaken to conduct a facilitated settlement conference between the original parties in this case, Lynx and Intrepid. The Division has no objection to the participation of the intervenors in this conference, but that will be left to the primary parties to decide.

I will not be involved in the adjudication of this matter if it proceeds to hearing. The rule against *ex parte* communications applies only to the commissioners and a hearing officer assigned to the case. None of the commissioners will participate in the settlement conference.

It seems to me entirely appropriate that the Division should attempt to facilitate the settlement of the immediate controversy. Obviously any settlement would be only between the parties and would establish no precedent for construction of the Division's rules or orders in other cases, whether in the same immediate vicinity or not. The Division will not be a party to any agreement that might eventuate from this meeting.

Thank you, Mr. Haas, for advising us of your position, and I hope this statement of the Division's purposes and intentions will allay your concerns.

Very truly yours,

David K. Brooks

cc: Mary Lynn Bogle -via FAX at 505-623-9332

10/10/2006