

# Holland & Knight

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August 30, 2012

*Via E-mail (David.Brooks@state.nm.us) and First Class Mail*

Mr. David Brooks  
New Mexico Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, New Mexico 87505

Re: Jicarilla Apache Nation Special Appearance, Motion to Dismiss and Memorandum of Law In Support of Motion to Dismiss, Written Request for Issuance of Subpoenas, and Pre-Hearing Statement  
Case No. 14904 - In the Matter of the Application of Heritage Petroleum, Inc. for Compulsory Pooling Rio Arriba County, New Mexico

Dear Mr. Brooks:

Please find enclosed herewith the following documents for filing by the Jicarilla Apache Nation ("Nation"), through its legal counsel, in the above referenced matter:

- 1) Special Appearance by Jicarilla Apache Nation;
- 2) Jicarilla Apache Nation's Motion to Dismiss;
- 3) Memorandum of Law in Support of the Jicarilla Apache Nation's Motion to Dismiss;
- 4) Jicarilla Apache Nation's Written Request for Issuance of Subpoenas; and
- 5) Jicarilla Apache Nation's Pre-Hearing Statement.

As we transmit these documents to the Division, we wish to advise the Division and the Applicant, Heritage Petroleum, Inc., that the Nation may need to request a continuance of the currently-scheduled September 20 hearing date. Included in the filings herewith is a written request for the Division to issue subpoenas to require two employees of the Bureau of Indian Affairs to testify and produce documents at the hearing. Along with our request to the Division, we have also transmitted *Touhy* requests to the Department of the Interior, pursuant to the

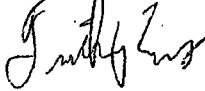
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Department of the Interior's regulations. Approval of these requests is necessary to allow these federal employees to testify and produce documents at the hearing. Based on our prior experience, we believe it is unlikely that the Department of the Interior will approve our *Touhy* requests prior to the September 20 hearing date. We will communicate with the Department of the Interior to determine whether or not it will be able to approve the Nation's requests prior to September 20. If approval by September 20 is not possible, we will file a formal request for continuance of the September 20 hearing date. We wanted to alert you and the Applicant as to this possibility at the earliest date.

Sincerely yours,

HOLLAND & KNIGHT LLP



Timothy Q. Evans

TQE:nct

Enclosures

cc: J. Scott Hall, Esq. and Seth McMillan, Esq. (with service copies of enclosures)  
Montgomery & Andrews PA  
*Attorneys for Heritage Petroleum, Inc.*

Superintendent Sherryl Vigil (with service copies of enclosures)  
Jicarilla Agency, Bureau of Indian Affairs

Donald Laverdure, Acting Assistant Secretary (with service copies of enclosures)  
Bureau of Indian Affairs

Farmington Field Office (with service copies of enclosures)  
Bureau of Land Management

Jesse Juen, State Director (with service copies of enclosures)  
Bureau of Land Management

Ken Salazar, Secretary (with service copies of enclosures)  
Department of the Interior