

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

**IN THE MATTER OF THE APPLICATION OF  
HERITAGE PETROLEUM, INC., FOR  
COMPULSORY POOLING, RIO ARRIBA  
COUNTY, NEW MEXICO**

**Case No. 14904**

**MEMORANDUM OF LAW IN SUPPORT OF THE  
JICARILLA APACHE NATION'S MOTION TO DISMISS**

**INTRODUCTION**

In this action, Heritage Petroleum, Inc. (herein referred to as "Heritage" or "Applicant") seeks compulsory pooling, under New Mexico State Law, of mineral interests that are held in trust by the United States for the Jicarilla Apache Nation ("Nation"). These mineral interests lie wholly beneath surface lands that are held in trust by the United States for the Nation. The mineral interests and surface lands are located within the Jicarilla Apache Reservation ("Reservation"). They are within the "Indian country" of the Nation, and as such, they are subject to Federal and Nation regulation, not State regulation.

Federal and Nation laws and regulations provide a comprehensive and exclusive framework for the development of Nation trust mineral interests on the Reservation. Heritage seeks to evade this framework and avoid compliance with Federal and Nation laws and regulations through a compulsory pooling order under State law.

The Nation respectfully submits that the Division does not have jurisdiction to issue a compulsory pooling order concerning the Nation's mineral interests or surface lands. Those interests and lands, and Heritage's use thereof, are subject to Federal and Nation jurisdiction, not State jurisdiction. Further, Federal and Nation sovereign immunity preclude the Division from adjudicating the interests of the United States or the Nation in the mineral estate and subject lands. Accordingly, the Application should be dismissed.

## FACTUAL BACKGROUND

This case concerns an application ("Application") for compulsory pooling of all interests in all pools or formations underlying the 40-acre oil spacing and proration unit consisting of the SE/4 NE/4 of projected Section 27, T30N, R1E ("Projected Section 27") in Rio Arriba County, New Mexico. Heritage proposes to dedicate the pooled unit to the so-called Theis Greenhorn Test Well No. 1.

The proposed spacing unit and well are located on the Reservation. Specifically, the lands on which the spacing and well are located are part of the 55,000  $\pm$  acres known as the Theis Ranch property. The Nation purchased the Theis Ranch property on June 21, 1985. The Nation also purchased an undivided 16.63125% interest in the mineral estate in, on, and under the Theis Ranch property on June 21, 1985.

The Nation conveyed the Theis Ranch property to the United States, to be held in trust for the Nation, on or about November 6, 1987. The Nation conveyed its undivided fractional interest in the mineral estate in, on, and under the Theis Ranch property to the United States, to be held in trust for the Nation, on or about December 4, 1987.

On or about March 10, 1988, the United States accepted the conveyances and approved the trust status of the lands and the Nation's undivided fractional interest in the mineral estate, pursuant to 25 U.S.C. § 465. *See* Sidney L. Mills, Area Director, Albuquerque Area Office, Bureau of Indian Affairs, Memorandum on Approved Trust Status for Theis Ranch, dated March 10, 1988 (attached hereto as Exhibit A).

On or about September 1, 1988, the United States added the lands and the Nation's undivided fractional interest in the mineral estate to the Reservation, pursuant to 25 U.S.C. § 467. *See, Proclamation of Certain Lands as Part of the Jicarilla Apache Reservation*, 53 Fed.

Reg. 37355-02 (Sept. 26, 1988) (attached hereto as Exhibit B).

More recently, in three separate transactions dated June 20, 21, and 25, 2012, the Nation purchased an additional 25% interest in the mineral estate in, on, and under the Theis Ranch property. The deeds for these transactions were recorded in the Rio Arriba County Clerk's Office on June 25 and 28, 2012, and copies are attached hereto as Exhibit C, D & F. And on the 15<sup>th</sup> of August 2012 the Nation conveyed these interests to the United States in trust. *See* Exhibit C. The Nation now owns an undivided 41.63125% of the total mineral estate.

To date, the Nation has not entered a mineral lease or mineral development agreement with Heritage or its alleged predecessor in interest, Blue Dolphin Production, LLC ("Blue Dolphin"),<sup>1</sup> to allow them to develop any of the Nation's mineral interests. Further, the United States has not approved any proposed development of the Nation's mineral interests by Heritage or Blue Dolphin. The Nation has not consented to the adjudication of its land rights or mineral interests in this proceeding. Notwithstanding prior misrepresentations by Blue Dolphin in the New Mexico Oil Conservation Division Case No. 14548, the Nation has not consented to the well location or any dedication of the spacing unit consisting of the SE/4 NE/4 of Projected Section 27 to the well.

### **PROCEDURAL HISTORY**

This Application is the latest in a long line of applications, dating back to August 2010, concerning the Theis Greenhorn Test Well No. 1 ("Well") and the dedication of that well to various oil spacing and proration units on the Reservation. These applications were filed by Heritage and Blue Dolphin, and in none of the applications have Heritage or Blue Dolphin revealed the fact the Well and spacing units are located entirely on the Reservation and within the "Indian country" of the Nation.

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<sup>1</sup> Heritage asserts that it is the "successor" to Blue Dolphin, but at this stage, it has produced no documentation to that effect.

The Nation has filed motions challenging the jurisdiction of the Division in each of the cases filed by Blue Dolphin and Heritage, and some of the motions are still pending, as discussed below. Resolution of these motions is necessary before the present Application can be addressed.

**A. Case No. 14548 and Order No. R-13326**

On August 26, 2010, Blue Dolphin filed Case No. 14548, *Application of Blue Dolphin Production, LLC, for an Unorthodox Well Location and Non-Standard Oil Spacing and Proration Unit, Rio Arriba County, New Mexico*. In its application, Blue Dolphin sought approval of a non-standard, 21  $\pm$  acre oil spacing and proration unit in the approximate E/2 SW/4 NE/4 of Projected Section 27 and dedication of that non-standard unit to the Well, which was to be located at an unorthodox location 1643' FNL and 1575' FEL of Projected Section 27 (Unit G).

In its application in Case No. 14548, and in the administrative proceedings on the application, Blue Dolphin misrepresented the location of the Well and spacing unit as being outside the Reservation.

In the application, Blue Dolphin stated that, of the 40 acres comprising the SW/4 NE/4 of Projected Section 27, only the 19.0  $\pm$  acres located in the approximate west half of the SW/4 NE/4 of Projected Section 27 were within the "reservation system lands administered by the BIA and Jicarilla Apache Nation." See Application in Case No. 14548 (attached hereto as Exhibit D) at ¶ 7. Blue Dolphin represented that the 21.0  $\pm$  acres located in the approximate east half of the SW/4 NE/4 of Projected Section 27 are in "proximity to Jicarilla Apache Nation lands," but not within the Reservation or a part of the Nation's lands. *Id.*, at ¶ 6.

At the hearing in Case No. 14548, Blue Dolphin represented that the proposed 21.0  $\pm$  acre unit is "entirely east of the reservation boundary." See Transcript of Hearing Proceedings in Case No. 14548 (attached hereto as Exhibit E) at 7:22-24. Blue Dolphin further represented that:

the proposed 21.0  $\pm$  acre unit consists of "unsurveyed lands bordering the Jicarilla Apache Reservation," *id.*, at 5:17-18; *see also, id.*, at 6:22-24; the Reservation is "to the west" of the proposed 21.0  $\pm$  acre unit, *id.*, at 5:21-6:3; *see also, id.*, at 9:3-6; and the proposed unorthodox Well location is "335 feet off of the Jicarilla boundary," *id.*, at 7:13-14. *See also* Hearing Exhibits in Case No. 14548 (attached hereto as Exhibit F) at 1-5.

All of these representations were false. The unorthodox Well location is located entirely on the Reservation, as are the surface lands of the proposed 21.0  $\pm$  acre non-standard spacing unit and the Nation's undivided fractional interest in the underlying mineral estate.

Not knowing Blue Dolphin's representations were false, the Division approved Blue Dolphin's unorthodox Well location and non-standard spacing unit. In its Order, the Division was careful to exclude any Reservation lands from the non-standard spacing unit. The Division specifically stated that: the 21.0  $\pm$  acre non-standard spacing unit "consist[ed] of that portion of the SW/4 NE/4 of Projected Section 27 lying east of the eastern boundary of the Jicarilla Apache Reservation," Order No. R-13326 (attached hereto as Exhibit G) at 1; "the proposed non-standard [Well] location is more than 330 feet from the eastern boundary of the Jicarilla Apache Reservation," *id.*, at 2; and "[t]he only lands within the quarter-quarter section that will not be included in the proposed non-standard unit are those lands within the Jicarilla Apache Reservation." *Id.*, at 2.

It is clear from these findings that the Division did not know that the Well or the proposed non-standard 21.0  $\pm$  acre spacing unit are, in fact, located entirely within the Reservation. It also appears clear that the Division would not have approved the Well location or non-standard spacing unit had it known they are located within the Reservation. The Division does not have jurisdiction over on-reservation lands, mineral estates, or fractional interests therein that are held in trust by the United States for the Nation.

The Nation has entered a Special Appearance in Case No. 14548 and has filed a Motion for Further Orders, seeking an order vacating Order No. R-13326 and dismissing the application for lack of jurisdiction or, in the alternative, staying the Order No. R-13326 pending further determination by the Division of the legality and proper scope and conditions of the order. That motion is still pending.

**B. Case No. 14629 and Order No. R-13511**

On March 25, 2011, Heritage's predecessor, Blue Dolphin, filed Case No. 14629, *Application of Blue Dolphin Production, LLC, for Compulsory Pooling, Rio Arriba County, New Mexico*. In the application, Blue Dolphin sought a compulsory pooling order in relation to the 21± acre non-standard unit approved in Order No. R-13326. Blue Dolphin again failed to notify the Division that the Well and non-standard unit was located on the Reservation. See Application in Case No. 14629 (attached hereto as Exhibit H).

The Nation entered a special appearance in Case No. 14629, notified the Division that the Well and non-standard unit are located on the Reservation, and moved that the application be dismissed for lack of jurisdiction. The Division ultimately dismissed the application, at Blue Dolphin's request, on February 3, 2012, by and through Order No. R-13511 (attached hereto as Exhibit I).

**C. Administrative Application No. pTWG11-22847580 and Administrative Order NSL-6462**

On August 11, 2011, while Case No. 14629 was still pending, Blue Dolphin filed an application for administrative approval of a new unorthodox location for the Well with a surface location of 1796' FNL and 1469' FEL of Projected Section 27 (Unit G) and a bottom hole location of 1796' FNL and 1069' FEL of Projected Section 27 (Unit H). This administrative application was predicated on the Division's prior Order No. R-13326, however, in the

application, Blue Dolphin proposed to dedicate the Well to a standard 40-acre spacing unit consisting of the SE/4 NE/4 of Projected Section 27, instead of the non-standard  $21 \pm$  acre unit previously approved by the Division in Order No. R-13326. *See* Administrative Application No. pTWG11-22847580 (attached hereto as Exhibit J).

In the application, Blue Dolphin failed to notify the Director that the proposed Well location and spacing unit are located entirely on the Reservation. While Blue Dolphin noted that the surface lands of the Theis Ranch property are “now owned in trust for the benefit of the Jicarilla Apache Nation,” *see* Letter to Director Bailey (included in Exhibit J) at 1-2, it simultaneously submitted a Well Location and Acreage Dedication Plat that showed the Well and spacing unit to be off the Reservation, to the east of the “Jicarilla Apache Reservation” boundary line. This is completely inaccurate. The Well and spacing unit are located entirely on the Reservation, and the Director apparently was not made aware of this fact.

In Administrative Order NSL-6462, dated September 12, 2011, the Division Director approved Blue Dolphin’s application. *See* Administrative Order NSL-6462 (attached hereto as Exhibit K). The order states: “Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.” *Id.* at 2.

The Nation has filed a motion for further orders in this case. Specifically, the Nation seeks an order vacating Administrative Order NSL-6462 and dismissing the application for lack of jurisdiction or, in the alternative, staying the order pending further determination by the Division of the legality and proper scope and conditions of the order.

The Nation’s motion for further orders is still pending. Resolution of this motion is necessary since Heritage now plans to develop the Well at the surface and bottom hole locations approved in Administrative Order NSL-6462. Similarly, resolution of the Nation’s pending

motion for further orders in respect to Order No. R-13326 is also necessary, since Administrative Order NSL-6462 was predicated on Order No. R-13326.

**D. Application for Amendment to Administrative Order NSL-6462.**

On July 24, 2012, Heritage filed an application for administrative approval of a new unorthodox location for the Well with surface and bottom hole locations of 1796' FNL and 1469' FEL of Projected Section 27 (Unit G). The Well was to be dedicated to a non-standard 61± acre oil spacing unit consisting of the approximate E/2 SW/4 NE/4 of Projected Section 27 and the SE/4 NE/4 of Projected Section 27. *See* Application for Amendment (attached hereto as Exhibit L).

Nowhere in its application did Heritage state that the Well and proposed 61± acre spacing unit are within the exterior boundaries of the Reservation. Heritage merely mentioned that the surface lands of the Theis Ranch property are “owned by the Jicarilla Apache Nation,” *see* Letter to Director Bailey (included in Exhibit L) at 2, but it failed to acknowledge that those lands are held in trust by the United States for the Nation and included within the Reservation. Similarly, Heritage stated that the Nation owns an undivided 16.63125% interest in the mineral estate, but it failed to acknowledge that the mineral estate is held in trust by the United States for the Nation and included within the Reservation. Further, Heritage failed to acknowledge that the Nation owns an additional undivided 25% interest in the mineral estate in fee.

On or before August 13, 2012, the Nation filed objections to the application for amendment to Administrative Order NSL-6462, and thereafter, on August 21, 2012, Heritage withdrew the application but filed an application for compulsory pooling. *See* Exhibit M attached hereto.

**E. Case No. 14904**

By its Application in this case, Heritage now seeks an order pooling all interests in all



pools or formations underlying the 40-acre oil spacing and proration unit consisting of the SE/4 NE/4 of Projected Section 27. Heritage proposes to dedicate the pooled unit to the Theis Greenhorn Test Well No. 1 at the location approved in Administrative Order NSL-6462, namely a surface location of 1796' FNL and 1469' FEL of Projected Section 27 (Unit G) and a bottom hole location of 1796' FNL and 1069' FEL (Unit H) of Projected Section 27.

The Nation opposes the Application and respectfully moves the Division to dismiss this action for lack of jurisdiction.

### **ARGUMENT**

#### **I. STATE JURISDICTION OVER THE NATION'S ON-RESERVATION MINERAL INTERESTS IS PREEMPTED BY FEDERAL AND NATION LAW.**

Federal and Nation laws and regulations provide the comprehensive, mandatory, and exclusive framework for the development of Nation's on-reservation mineral interests. The relevant Federal laws include the Indian Mineral Leasing Act ("IMLA"), Act of May 11, 1938, c. 198, 52 Stat. 347, *codified as amended at* 25 U.S.C. §§ 396a-396g, and its implementing regulations, 25 C.F.R. Part 211. *See also*, Indian Mineral Development Act of 1982, Pub. L. 97-382, 96 Stat. 1938, *codified at* 25 U.S.C. §§ 2101-2108. The relevant Nation laws are set forth in Jicarilla Apache Nation Code Title 18 ("Oil and Gas"), which was approved by the Secretary of the Interior. *See*, J.A.N. Const., Art. XI.

Neither Heritage nor its alleged predecessor, Blue Dolphin, has complied with these laws. Instead, Heritage seeks to evade this framework and avoid compliance with Federal and Nation laws and regulations through a compulsory pooling order under State law. This is not permissible.

As a general rule, absent congressional authorization, States have no authority to tax or regulate the property or conduct of Indian Tribes or their members in Indian country. *See, Okla.*

*Tax Comm'n v. Sac and Fox Nation*, 508 U.S. 114, 125 (1993); *Montana v. Blackfeet Tribe*, 471 U.S. 759, 764 (1985); *Fischer v. Dist. Ct.*, 424 U.S. 382, 386 (1976); *Williams v. Lee*, 358 U.S. 217, 220 (1959); *Worcester v. Georgia*, 31 U.S. 515, 561-562 (1832).

In this case, Congress has not authorized State authority over the Nation's on-reservation mineral interests, including the mineral interests held in trust by the United States. As a result, neither the State of New Mexico nor this Division has authority over those mineral interests.

Yet, in the present case, Heritage asks the Division to apply State law to the subject mineral interests. Specifically, Heritage asks the Division to exercise jurisdiction to pool the Nation's mineral interests, including the mineral interests held in trust by the United States for the Nation, with the other mineral interests allegedly leased by Heritage. Further, Heritage asks the Division to designate Heritage as the single operator for the entire 40-acre spacing and proration unit. If the Division were to approve Heritage's compulsory pooling application, it would subject all oil and gas development and operations on the 40-acre unit to State law.

The State's oil and gas laws govern the assignment and leasing of oil and gas interests, wells, liens on wells, unitization of fractional interests, payment of oil and gas proceeds, and protection of surface owners, among other things. *See*, NMSA 1978 ch. 70, arts. 1-12. If the compulsory pooling application were approved, these State laws would be applied to the Nation's mineral interests, which are held in trust by the United States. In addition, the Division would arguably have the authority, under State law, to establish royalty rates for unleased mineral interests, allocate production between the Nation and Heritage, order pro rata reimbursement by the Nation to Heritage for its development and operation costs, and order the Nation to compensate Heritage for the risk involved in drilling the well (which compensation may be as high as 200% of the Nation's pro rata share of the cost of drilling and completing the

well.). *See*, NMSA 1978 § 70-2-17(C). The Division would also arguably be asserting the authority to settle disputes between Heritage and the Nation. *Id.*

These State laws are preempted by Federal and Nation law and may not be applied to the development of the Nation's mineral interests, including the mineral interests held in trust by the United States for the Nation. As noted above, Federal and Nation laws and regulations provide the comprehensive, mandatory, and exclusive framework for the development of these Indian mineral interests.

**A. Federal Law Governs Mineral Development on the Reservation.**

The United States, "acting to safeguard the Indians in the conduct of their affairs, has established a comprehensive statutory and regulatory scheme covering mineral leasing on tribal lands." *United States v. 9,345.53 Acres of Land*, 256 F. Supp. 603, 605 (W.D.N.Y. 1966). The cornerstone of this comprehensive Federal scheme is the IMLA.

The IMLA requires Federal and Nation approval of the development of oil and gas resources on the Nation's lands. It allows for the leasing of "lands owned by any tribe" for mining purposes, but requires such leases first to be approved by the Secretary of the Interior and the Indian Nation on whose lands the mining operations will take place. 25 U.S.C. § 396a. Any instrument that purports to authorize the development of minerals held in trust has no validity and is void if it fails to comply with the IMLA and applicable federal regulations. *9,345.53 Acres of Land*, 256 F. Supp., at 607-608.

The IMLA also subjects mineral operations on the Nation's lands to extensive Federal regulation. *See* 25 U.S.C. § 396d; 25 C.F.R. Part 211. Among other things, Federal regulations govern leases and permits for the development of mineral resources, production requirements and restrictions, Federal inspection of mineral operations, suspension of such operations, and

cancellation of mineral development leases and permits. See 25 C.F.R. Part 211.

The IMLA applies to “lands owned by any tribe,” 25 U.S.C. § 396a, including “lands or interests in lands the title to which is held in trust by the United States.” 25 C.F.R. § 211.1(a). The surface lands of the proposed spacing unit are held in trust by the United States for the Nation, and the Nation has conveyed in trust to the United States all of the mineral interests it has purchased in the Theis property. Thus, the IMLA applies in this case.

The Nation’s trust mineral interest permeates the entire mineral estate. The Nation’s trust mineral interest is undivided, meaning it is “not assigned to particular portions of the property.” POWELL ON REAL PROPERTY § 50.01. Instead, the Nation’s trust mineral interest “may ultimately be satisfied out of any portion of the whole property.” *Id.* The Nation has an undivided present possessory interest in the entire mineral estate and a right to use and possess the whole property and every part of it, “regardless of the size of [its] fractional share.” *Id.* See also *id.*, at § 50.03;

86 C.J.S. Tenancy in Common § 26.

Because the Nation’s trust mineral interest permeates the mineral estate, the entire estate falls within the scope of 25 U.S.C. § 396a and is, therefore, subject to the requirements and protections of the IMLA.<sup>2</sup>

The IMLA and its implementing regulations allow for the creation of well-spacing

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<sup>2</sup> In related contexts, courts have found that the undivided, fractional interests held in trust for Indian Tribes “create tribal land” subject to the protections of Federal law. For example, in *Nebraska Public Power District v. 100.95 Acres of Land in County of Thurston*, 719 F.2d 956, 962 (8th Cir. 1983), the court held that lands in which the United States holds fractional, undivided, future interests in trust for a Tribe are “tribal land not subject to condemnation” under 25 U.S.C. § 324. There, as here, the implementing regulations define tribal land as “land or any interest therein, title to which is held by the United States in trust for a tribe.” *Id.* (quoting 25 C.F.R. § 169.1(d)). Cf., 25 C.F.R. § 211.3 (regulation implementing IMLA).

programs on Indian lands and for the communitization of fractional interests in mineral estates on Indian lands. See 25 U.S.C. § 396d; 25 C.F.R. § 211.28. “Under a communitization agreement, drilling operations conducted anywhere within the unit area are deemed to occur on each lease within the communitized area and production anywhere within the unit is considered to be produced from each tract within the unit.” *Cheyenne-Arapaho Tribes of Oklahoma v. United States*, 966 F.2d 583, 585 (10th Cir. 1992), *cert. denied*, 507 U.S. 1004 (1993). The Secretary of the Interior must consider several factors before approving a well-spacing program or communitization agreement, and it must determine that “approval is advisable and in the best interest of the Indian mineral owner.” 25 C.F.R. § 211.28(a). See also, *Cheyenne-Arapaho Tribes*, 966 F.2d at 588-591.

Heritage has not availed itself of this Federal process, nor can it unless and until the Nation’s mineral interests are subject to a duly granted and approved IMLA lease or mineral development agreement. See, e.g., 25 U.S.C. § 211.28(a) (restricting communitization to “leased areas”). The present application is an impermissible attempt to avoid the requirements of Federal law, and therefore, the Division has no authority to approve it.

**B. Nation Law Also Governs Mineral Development on the Reservation.**

The Nation exercises concurrent regulatory authority over on-reservation mineral development. This authority is integral to the Nation’s inherent powers of “self-government” and “territorial management”, see *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 140-141 (1982), and has been recognized and affirmed by Congress, see 25 U.S.C. §§ 396a & 2108.

Under the Nation’s laws, Heritage may not engage in exploration or development

of the Nation's interest in the mineral estate without obtaining an oil and gas operating permit from the Nation and complying with the Nation's development standards and other laws. See J.A.N. Code § 18-1-3.<sup>3</sup> The Nation's laws were approved by the U.S. Department of the Interior and are consistent with prevailing Federal law. See J.A.N. Const., Art. XI; J.A.N. Code § 18-1-2.

The Division should not permit Heritage to circumvent the Nation's laws, or the laws of the United States, through a forced pooling order issued under State law. To date, the Nation has not leased its mineral interests to Heritage or to its alleged predecessor, Blue Dolphin, and the Secretary of the Interior has not approved Heritage's proposed development of the Nation's mineral interests.

Approval of the application would result in development of the Nation's trust mineral interests without the Nation's consent and without compliance with prevailing Federal and Nation law. It would also undermine the Nation's correlative rights. The Nation owns a 100% mineral interest in all non-Theis Ranch lands within Section 27. Excluding those lands from the proposed spacing unit dilutes the Nation's fractional interest in mineral development within Section 27. In sum, Federal and Nation law pre-empt the field, and this Application should be dismissed.

## **II. STATE JURISDICTION OVER THE NATION'S ON-RESERVATION MINERAL INTERESTS IS BARRED BY THE SOVEREIGN IMMUNITY OF THE UNITED STATES AND THE NATION.**

The Nation has entered a Special Appearance in this action, but it has not consented to the jurisdiction of the Division and it has not consented to be joined as a

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<sup>3</sup> The Nation's Oil and Gas Code contains mineral development standards and regulations, J.A.N. Code chs. 18-9 & 18-13, restrictions to protect surface lands, *id.*, at ch. 18-8, and regulations governing the assignment, sublease, and designation of oil and gas operating rights on the Reservation, *id.*, at ch. 18-11, among other things. See generally, J.A.N. Code Title 18.

party to this action. To the contrary, the Nation maintains that the Division lacks jurisdiction over the Nation's on- reservation mineral interests, including the mineral interests held in trust by the United States for the Nation.

This action involves the property interests of the United States and the Nation in the mineral estate. It also involves the jurisdictional control of the United States and the Nation over the mineral estate and surface lands on federally protected Reservation lands. The Division cannot issue the compulsory pooling order, single operator designation, or other relief sought by Heritage without affecting these interests. The United States and the Nation are, therefore, necessary and indispensable parties to the adjudication of this matter. Yet, the United States and the Nation both have sovereign immunity and, absent waiver or consent, may not be joined as parties to this action. Accordingly, the action should be dismissed.

**A. Federal Sovereign Immunity Mandates Dismissal.**

"It is elementary that the United States, as sovereign, is immune from suit save as it consents to be sued, and the terms of its consent to be sued in any court define that court's jurisdiction to entertain the suit." *United States v. Mitchell*, 445 U.S. 535, 538 (1980) (internal quotation omitted). The Federal Government's sovereign immunity applies not just to judicial proceedings, but also to adjudicative proceedings before administrative agencies. *See, Federal Maritime Comm'n v. South Carolina State Ports Authority*, 535 U.S. 743, 760 (2002). "It is common ground that absent waiver or consent, federal sovereign immunity precludes a state from hauling the United States into either a state court or an adversarial state administrative proceeding." *United States v. Puerto Rico*, 287 F.3d 212, 216 (1st Cir. 2002).

Sovereign immunity is determined not by the party named as the defendant but by

the issues presented and the effect of the judgment. *State of New Mexico v. Regan*, 745 F.2d 1318, 1320 (10th Cir. 1984), *cert denied*, 471 U.S. 1065 (1985) (citations omitted). "If the relief sought ... operates against the sovereign, then the action must be deemed as one against the sovereign." *Id.* (citing *State of Hawaii v. Gordon*, 373 U.S. 57, 58 (1963)).

This action is directed against property in which the United States has an interest. Among other things, Heritage seeks an order pooling the mineral interests held in trust by the United States for the Nation. Heritage also seeks an order granting it the exclusive right to use, possess, and develop the Nation's federally protected trust mineral interests.

The Supreme Court has held that, "[a] proceeding against property in which the United States has an interest is a suit against the United States." *Minnesota v. United States*, 305 U.S.382, 386 (1939) (citations omitted). Specifically, the Court has held that in cases affecting Indian trust lands, "no effective relief can be given in a proceeding to which the United States is not a party and that the United States is therefore an indispensable party to any suit to establish or acquire an interest in the lands." *Minnesota*, 305 U.S. at 386 n.1.

This action also will have an effect on jurisdictional control over the mineral interests and lands held in trust by the United States. This action seeks, in effect, a determination that these federally protected trust resources and lands are not subject to the regulatory jurisdiction of the United States or the Nation, but instead are subject to State jurisdiction. At a minimum, the requested relief would affect the ability of the United States to protect, administer, and exercise its governmental authority over the subject lands and resources. This affects the sovereign interests of the government. *See, Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 282 (1997).



The courts have held that the United States is an indispensable party to any action in which the relief sought would affect or impair its governmental function to protect and administer property held in trust for an Indian Tribe. *Town of Omekah v. United States*, 140 F.2d 963, 964 (10th Cir. 1944).

The Division cannot fully adjudicate this action without affecting the interests of the United States. Thus, the United States is a necessary and indispensable party. Because the United States is immune from suit and cannot be joined, the administrative order should be vacated and the application dismissed.

**B. The Nation's Sovereign Immunity Also Mandates Dismissal.**

The Nation has sovereign immunity and is not subject to adjudicative proceedings in State or Federal tribunals unless Congress has authorized the proceedings or the Nation has waived its immunity. *Kiowa Tribe v. Mfg. Technologies, Inc.*, 523 U.S. 751, 754 (1998); *Okla. Tax Comm'n v. Citizen Band of Potawatomi Indian Tribe*, 498 U.S. 505, 509-510 (1991); *Three Affiliated Tribes of Ft. Berthold Reservation v. Wold Eng'g*, 476 U.S. 877, 890-891 (1986); *Puyallup Tribe v. Dep't of Game*, 433 U.S. 165, 172-173 (1977). Congress has not authorized judicial or administrative proceedings against the Nation in respect to the Nation's mineral interests, and the Nation has not waived its sovereign immunity in respect to such proceedings.

The doctrine of tribal sovereign immunity "is a necessary corollary to Indian sovereignty and self-governance." *Three Affiliated Tribes*, 476 U.S. at 890. It extends to the governmental and commercial activities of the Nation, *Kiowa Tribe*, 523 U.S. at 760, and it applies equally to judicial and adjudicative proceedings. See, *Federal Maritime Comm'n*, 535 U.S. at 760.<sup>4</sup>

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<sup>4</sup> "Sovereign immunity is not so hollow a concept as to prohibit proceedings in certain *fora* like a federal or state court while at the same time permitting a similar proceeding

New Mexico courts have affirmed that, “tribal immunity is a matter of federal law and is not subject to diminution by the states.” *Gallegos v. Pueblo of Tesuque*, 46 P.3d 668, 673 (N.M. 2002). Further New Mexico courts recognize that, “sovereign immunity is not a discretionary doctrine that may be applied as a remedy depending on the equities of a given situation ... Rather, it presents a pure jurisdictional question.” *Armijo v. Pueblo of Laguna*, 247 P.3d 1119,1123 (N.M. Ct. App. 2010) (internal citations and quotation marks omitted). *Accord*, *Antonio v. Inn of Mtn. Gods Resort & Casino*, 242 P.3d 425, 427 (N.M. Ct. App. 2010), *cert. denied*, 241 P.3d 611 (N.M. 2010). *See also*, *Doe v. Santa Clara Pueblo*, 154 P.3d 644, 651, n.6 (N.M. 2007).

The New Mexico Supreme Court has concluded that an Indian Tribe has an “interest as a sovereign entity in participating in any litigation where its rights and obligations might be adjudicated.” *Gallegos*, 46 P.3d, at 683. In *Armijo*, the court held that proceedings concerning property in which an Indian Tribe has an interest require joinder of the Tribe. 247 P.3d, at 1126.

The instant proceeding clearly affects the Nation’s property interests in the proposed spacing unit. The Nation owns the surface estate and an undivided 16.63125% interest in the subsurface mineral estate, both of which are held in trust status by the United States. The Nation also owns an undivided 25% fee interest in the mineral estate. Heritage seeks an order pooling the Nation’s interests and granting Heritage the exclusive right to use, possess, and develop those interests.

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to take place under the auspices of a legislative court or an agency adjudication.” *South Carolina State Ports Authority v. Federal Maritime Comm’n*, 243 F.3d 165, 172 (4th Cir. 2001), *aff’d*, *Federal Maritime Comm’n v. South Carolina State Ports Authority*, 535 U.S. 743 (2002).

Adjudication of these property interests requires the participation of the Nation and the United States. In *Herrera v. Town of Atrisco*, 412 P.2d 253 (N.M. 1966), the New Mexico Supreme Court held that adjudication of the rights of the owner of a fractional interest in a mineral lease required the participation of the owner of the remaining fractional interest in the same lease. *Id.*, at 255. The court held that “there can be no question” that the unjoined concurrent owner “was an indispensable party,” *id.*, a party “without whom the court could not lawfully proceed.” *Id.* (quoting *Miller v. Klasner*, 140 P. 1107, 1108 (N.M. 1914) (internal citations omitted)). The same conclusion must be reached in this case, since Heritage seeks an adjudication of its rights as lessee of various fractional interests in a mineral estate and the Nation owns the remaining fractional interest in the same estate. In short, the Nation is an indispensable party. Moreover, this proceeding affects the ability of the Nation – and the ability of the United States, as trustee for the Nation – to govern and regulate the use, possession, and development of the Nation’s mineral interests and surface lands. Adjudication of these interests requires joinder of the Nation. Because the Nation is immune from suit and cannot be joined, the action should be dismissed. *Golden Oil Co. v. Chace Oil Co.*, 994 P.2d 772, 773, 774-775 (N.M. Ct. App. 1999).

## CONCLUSION

The Nation respectfully submits that the Division does not have jurisdiction to issue a forced pooling order concerning the Nation’s on-reservation mineral interests and surface lands at the Theis Ranch property. Those interests and lands, and Heritage’s use thereof, are subject to Federal and Nation jurisdiction, not State jurisdiction. Further, Federal and Nation sovereign immunity preclude the Division from adjudicating the interests of the United States and the Nation in the mineral estate. For these reasons, the

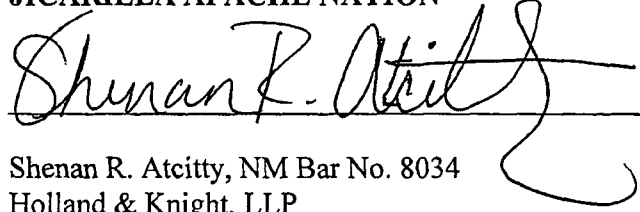
Application should be dismissed.

If Heritage seeks to develop the Nation's mineral interests, it must do so in conformity with prevailing Federal and Nation laws. Federal law allows for the communitization of fractionated mineral interests, while at the same time safeguarding the interests of the United States and Nation. Heritage must avail itself of this Federal process, and this action must be dismissed.

Dated: August 30, 2012

Respectfully submitted,

**JICARILLA APACHE NATION**



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*Attorneys for the Nation*

## Exhibit A



# United States Department of the Interior

## BUREAU OF INDIAN AFFAIRS

ALBUQUERQUE AREA OFFICE  
P.O. BOX 26567  
ALBUQUERQUE, NEW MEXICO 87125-6567

IN REPLY REFER TO:

320 - Real Estate  
Services

MAR 10 1988

### Memorandum

To: Superintendent, Jicarilla Agency  
Attention: Real Property Management

From: Area Director

Subject: Approved Trust Status for Theis Ranch

Attached, for your records, is a copy of the March 3, 1988, Final Title Opinion for the Theis Ranch from the Office of the Field Solicitor, Santa Fe. In accordance with this opinion, we have approved the Warranty and Quitclaim Deeds both dated November 6, 1987, whereby the Jicarilla Apache Tribe conveys all its interest to the subject lands to the United States of America in trust for the Jicarilla Apache Tribe. These conveyances cover 54,843.44 acres of land located off-reservation in Rio Arriba County, New Mexico. We have also approved the Mineral Deed dated December 4, 1987, whereby the Jicarilla Apache Tribe conveys an undivided mineral interest to the United States in trust for the Jicarilla Apache Tribe.

We have attached copies of these deeds for your records. All three of the originals have been sent to the Land Titles and Records Office for recording and will be mailed directly to you when they have finished their recording process. We have also attached the originals of the Title Insurance Policy Endorsement listing the correction on Schedule A and the supplemental Abstract of Title prepared by Escalante Abstract and Title Company.

As a result of these conveyances and approvals, this property has passed into trust status. If you have not done so already, please notify the Rio Arriba County Assessor to remove this property from the tax rolls.

There is a separate process the Central Office follows to have acquired trust land put into "reservation" status. Please discuss with the Tribe whether they wish to have the Theis Ranch put into reservation status. If they do, please obtain a Tribal Council Resolution requesting the Secretary of Interior to put the Theis Ranch into reservation status. You will also have to give the 30-day notice of proposed reservation status to the county and state. When these items have been completed, send them to the Area Office along with your recommendation and we will submit the request with our recommendation to the Central Office. If

-2-

you have any questions regarding these procedures, please contact our Branch of Real Estate Services at (505) 766-3610.

*Sidney L. Mills*

Area Director

Attachments

cc: Les Taylor, Tribal Attorney



**Exhibit B**

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Budget and Administrative Statement.....	130		1		12		1,560

Total Estimated Burden Hours: 1,560.

Status: Reinstatement.

Contact: Patricia S. Arnaudo, HUD  
(202) 755-1015, John Allison, OMB, (202)  
395-6880.

Date: September 20, 1988.

[FR Doc. 88-21968 Filed 9-23-88; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Information Collections Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

September 16, 1988.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Budget Clearance Office and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone number (202) 395-7340.

Title: Financial Assistance and Social Services Program (25 CFR 20). OMB approval number: 1076-0017.

Abstract: These forms request financial, demographic and employment information on clientele for the purpose of determining eligibility to receive financial assistance. These forms allow the Bureau worker to determine the degree of unmet need and arrange for a monthly payment.

Bureau Form Number: 5-6601, 5-6603, 5-6604, 5-6605, 5-1201B.

Description of Respondents: Individuals whose needs have not been met and some form of subsistence is required.

Estimated completion time:

#### Form and Time

6601—7 minutes

6603—12 minutes

6604—17 minutes

6605—9 minutes

1201B—9 minutes

Annual Response: 213,288.

Annual Burden Hours: 180,315.

Bureau Clearance Officer: Cathie L. Martin  
(202) 343-3577.

Hazel E. Elbert,

Deputy to the Assistant Secretary, Indian  
Affairs (Tribal Services).

[FR Doc. 88-21924 Filed 9-23-88; 8:45 am]

BILLING CODE 4310-02-M

#### Proclamation of Certain Lands as Part of the Jicarilla Apache Reservation

September 1, 1988.

AGENCY: Bureau of Indian Affairs,  
Interior.

ACTION: Notice of reservation  
proclamation.

SUMMARY: By Proclamation issued on September 1, 1988, pursuant to authority contained in section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the lands described below, known locally as the Theis Ranch and located in Rio Arriba County, New Mexico, were added to and made a part of the Jicarilla Apache Indian Reservation.

New Mexico Principal Meridian

Parcel A—Acquired by Warranty Deed  
Recorded in Book 158, Page 73-77

A tract of land lying and being situate within the Tierra Amarilla Grant in Rio Arriba County, New Mexico and being more particularly described as follows, to wit:

Beginning at the southwest corner of the tract herein described, which point is on the westerly boundary of the Tierra Amarilla Grant and is marked by a stone marked with a cross on top and the letters "TC" on the East and bears S. 0°08' W., 689.70 feet to the Twenty-Four (24) mile post on the west boundary of the Tierra Amarilla Grant marked by a brass cap. From said point of beginning thence S. 80°00'00" E., 17,711.10 feet; thence N. 00°00'00" E., 18,222.20 feet; thence S. 90°00'00" E., 19,077.70 feet; thence S. 00°00'00" W., 3,201.10 feet; thence S. 90°00'00" E., 31,677.50 feet; thence N. 03°04'00" W., 5,762.20 feet; thence N. 28°39'00" E., 8,910.00 feet; thence N. 00°39'00" E., 791.00 feet; thence N. 06°24'00" E., 2,449.20 feet; thence S. 90°00'00" W., 2,428.90 feet; thence N. 37°52'00" W., 10,584.00 feet; thence N. 90°00'00" W., 21,000.00 feet; thence N. 48°42'00" W., 1,424.00 feet; thence N. 90°00'00" W., 7,571.40 feet; thence N. 48°18'00" W., 2,440.50 feet; thence N. 69°00'00" W., 2,448.60 feet; thence N. 70°25'00" W., 1,924.50 feet; thence N. 90°00'00" W., 10,060.00 feet; thence N. 38°06'00" W., 645.00 feet; thence N. 61°03'00" W., 1,071.00 feet; thence N. 31°21'00" W., 5,694.30 feet; thence N. 12°54'00" W., 1,536.00

feet; thence N. 23°38'00" W., 6,090.60 feet; thence N. 16°45'00" E., 1,160.00 feet; thence N. 08°15'00" E., 303.00 feet; thence N. 05°00'00" W., 690.00 feet; thence N. 20°45'00" W., 535.00 feet; thence N. 33°55'00" W., 957.00 feet; thence N. 22°45'00" W., 1,811.00 feet; thence N. 61°05'00" E., 1,403.00 feet; thence N. 27°15'00" W., 1,105.00 feet; thence N. 37°00'00" W., 1,375.00 feet; thence N. 66°45'00" W., 923.00 feet; thence N. 85°55'00" W., 275.00 feet; thence N. 65°00'00" W., 802.00 feet; thence N. 36°55'00" W., 1,334.00 feet; thence N. 41°45'00" W., 1,170.00 feet; thence N. 66°50'00" W., 290.00 feet; thence N. 70°10'00" W., 1,510.00 feet; thence N. 70°55'00" W., 2,860.00 feet; thence N. 55°55'00" W., 2,841.00 feet; thence N. 90°00'00" W., 82.00 feet; thence S. 00°11'00" W., 34,059.80 feet; thence S. 25°27'00" E., 1,259.90 feet; thence S. 00°08'00" W., 35,617.00 feet to the point and place of beginning. Containing 54,843.44 acres, more or less, as shown on a plat prepared by Cipriano Martinez dated February 7, 1985 and entitled Plat showing the lands of "The Theis Company" within the Tierra Amarilla Grant, Rio Arriba County, New Mexico;

Subject To, Less and Excepting Therefrom

(1) That certain parcel of land known as Iron Springs Vega, containing about 91.4 acres, more or less, as set forth in Deed from Charles C. Catron to Chama Valley Land Company dated June 12, 1909, recorded in Book 4, page 119, records of Rio Arriba County, New Mexico, and any access thereto, if any, being the only exception within the exterior boundary of the property conveyed herein set out in said deed.

(2) The subdivision lots located in El Vado Acres, sometimes known as Laguan Vista Subdivision and as Canada Laguna Subdivision, as shown on plat filed April 25, 1932 in the Office of the County Clerk of Rio Arriba County, New Mexico and described on Quitclaim Deed filed for the record on November 6, 1987, and recorded in the land records of Rio Arriba County in Book of Deeds 158, pages 78 and 79.

(3) Those certain parcels of land conveyed for highway purposes by stipulated judgment in *State Highway Department of New Mexico v. Theis Company*, a partnership entered September 21, 1971, recorded in Misc. Book 109A, page 479, records of Rio Arriba County, New Mexico.

(4) That certain parcel of land conveyed for highway purposes by Quitclaim Deed from Theis Company, a co-partnership to State Highway Department of New Mexico dated September 30, 1971, recorded in Misc. Book 113, page 156, records of Rio Arriba County, New Mexico.

Parcel B—Acquired by Quitclaim Deed  
Recorded in Book 158, Pages 78-79

The following described real estate, and improvements thereon, lying and being

situate in the County of Rio Arriba, State of New Mexico:

The following described lots located in El Vado Acres, sometimes known as Laguna Vista Subdivision and as Canada Laguna Subdivision, as shown on plat filed April 25, 1932 in the office of the County Clerk of Rio Arriba County, New Mexico.

Lots 1, 2, 5, 7, 8, 10, 11, 17, 20, 23, and 26 and 29, Block 1; Lots 1, 2, 4, to 10 inclusive, 12, 13, 15, to 18 inclusive, 27 and 28, Block 2; Lots 2 to 7 inclusive, 13 to 17 inclusive, 20, 26, 27 and 28, Block 3; Lots 1 to 8 inclusive, Block 4; Lots 1 to 10 inclusive, 14 to 17 inclusive and 19 to 25 inclusive, Block 6; Lots 1 to 5 inclusive and 8 to 30 inclusive, Block 7; Lots 1 to 6 inclusive, 8, 9, 10, 12, 13, 17 to 20 inclusive, and 30, Block 8; Lots 6 to 10 inclusive, 14, 15, 21 and 24 to 27 inclusive, Block 8; Lots 1 to 15 inclusive, 28, 29, and 30, Block 12; Lots 14-18 inclusive and 21 to 24 inclusive, Block 13; Lots 28, 29 and 30, Block 14; Lot 18, Block 15.

**Parcel C—Acquired by Mineral Deed  
Recorded in Book 120, Pages 832-834**

The following described minerals to-wit:

The greater of an undivided twenty-five percent (25%) interest or five thousand five hundred (5,500) net mineral acres in and to all oil and gas and all other minerals owned by Grantor in, or under and that certain real property situate in the County of Rio Arriba, State of New Mexico, more particularly described in Exhibit A attached hereto and incorporated by reference herein. Grantor shall have the executive leading rights to the undivided interest in the oil and gas and all other minerals in, on and under the real property described below as Exhibit A which is granted to Grantee by Grantor by this mineral deed.

**Exhibit A**

A tract of land lying and being situate within the Tierra Amarilla Grant in Rio Arriba County, New Mexico and being more particularly described as follows, to-wit:

Beginning at the southwest corner of the tract bearing described which point is on the westerly boundary of the Tierra Amarilla Grant and is marked by a stone marked with a cross on top and the letters "TG" on the East the bears S. 0°08' W., 369.70 feet to the Twenty-Four (24) mile post on the west boundary of the Tierra Amarilla Grant marked by a brass cap. From said point of beginning thence S. 00°00' E., 17,711.10 feet; thence N. 00°00'00" E., 18,222.20 feet; thence S. 90°00'00" E., 19,077.70 feet; thence S. 00°00'00" W., 3,201.10 feet; thence S. 90°00'00" E., 31,677.50 feet; thence N. 03°04'00" W., 5,762.20 feet; thence N. 28°39'00" E., 8,910.00 feet; thence N. 00°39'00" E., 791.00 feet; thence N. 06°24'00" E., thence N. 06°24'00" E., 2,449.20 feet; thence S. 90°00'00" W., 2,428.90 feet; thence N. 37°52'00" W., 10,584 feet; thence N. 90°00'00" W., 21,000.00 feet; thence N. 48°42'00" W., 1,424 feet; thence N. 90°00'00" W., 7,571.40 feet; thence N. 48°18'00" W., 2,440.50 feet; thence N. 69°00'00" W., 2,448.60 feet; thence N. 70°25'00" W., 1,924.50 feet; thence N. 90°00'00" W., 10,060.00 feet; thence N. 38°08'00" W., 845.00 feet; thence N. 61°03'00" W., 1,071.00 feet; thence N. 31°21'00" W., 5,694.30 feet; thence N. 12°54'00" W., 1,536.00 feet; thence N. 23°38'00" W., 6,090.60 feet; thence N.

16°45'00" E., 1,160.00 feet; thence N. 08°15'00" E., 303.00 feet; thence N. 05°00'00" W., 790.00 feet; thence N. 20°45'00" W., 535.00 feet; thence N. 33°55'00" W., 957.00 feet; thence N. 22°45'00" W., 1,811.00 feet; thence N. 61°05'00" E., 1,403.00 feet; thence N. 27°15'00" W., 1,105.00 feet; thence N. 37°00'00" W., 1,375.00 feet; thence N. 66°45'00" W., 923.00 feet; thence N. 85°55'00" W., 275.00 feet; thence N. 65°00'00" W., 802.00 feet; thence N. 36°55'00" W., 1,334.00 feet; thence N. 41°45'00" W., 1,170.00 feet; thence N. 66°50'00" W., 280.00 feet; thence N. 70°10'00" W., 1,510.00 feet; thence N. 70°55'00" W., 2,880.00 feet; thence N. 55°55'00" W., 2,841.00 feet; thence N. 90°00'00" W., 82.00 feet; thence S. 00°11'00" W., 34,059.80 feet; thence S. 25°27'00" E., 1,259.90 feet; thence S. 00°08'00" W., 35,617.00 feet to the point and place of beginning. Containing 54,843.44 acres, more or less as shown on a plat prepared by Cipriano Martinez entitled Plat showing the land of the "The Theis company" within the Tierra Amarilla Grant, Rio Arriba County, New Mexico.

The above described parcels are subject to all valid rights, reservations, rights-of-way, exceptions and easements of record. The notice is published pursuant to authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs at 209 DM 8.1.

W.P. Ragsdale,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 88-21928 Filed 9-23-88; 8:45 am]

BILLING CODE 4310-02-M

**Proclamation of Certain Lands as Part  
of the Jicarilla Apache Reservation**

September 1, 1988.

**AGENCY:** Bureau of Indian Affairs,  
Interior.

**ACTION:** Notice of reservation  
proclamation.

**SUMMARY:** By proclamation issued on Sept. 1, 1988, pursuant to authority provided in section 7 of the Act of June 18, 1984 (48 Stat. 984; 25 U.S.C. 467), the following described lands, known locally as the El Poso Ranch, and located in Rio Arriba County, New Mexico, were added to and made a part of the Jicarilla Apache Indian Reservation.

**Parcel A—Acquired by Warranty Deed  
Recorded in Book 149, Pages 953-963**

Certain real estate containing twenty-six thousand eight hundred ninety-eight and eight one hundredths (26,898.08) acres, more or less; as described in the Dependent Resurvey and Survey of the El Poso Ranch Tract, accepted by the United States Department of the Interior, Bureau of Land Management on June 4, 1984, and recorded in the Rio Arriba County records, at Book 149, page 958-963; *excepting* therefrom all subdivisions as shown on the Dependent Resurvey of El Poso Ranch showing all

subdivisions and acreage thereof filed in the Records of the County Clerk of Rio Arriba County, New Mexico Book E-132, Page 1112, dated January 13, 1982, consisting of 718.748 acres, more or less, and further *excepting* and *excluding* therefrom that certain tract beginning at AP 41, on the east boundary of the El Poso Ranch Tract within the Tierra Amarilla Grant; thence, N. 1°48' W., 135.112 chains distance to AP 42; thence, S. 0°02' E., 132.930 chains distance to rebar, ½ inch diameter with a plastic cap marked AGV LS5221; thence, S. 82°35' E., 4.80 chains to AP 41, the point of beginning, containing twenty-seven and thirteen hundredths (27.13) acres, more or less; including an undivided twenty-five percent (25%) non-executive mineral interest in and to all oil and gas and all minerals in, on and under the approximately twenty-six thousand eight hundred ninety-eight and eight one hundredths (26,898.08) acres, as more particularly described above, but *excepting* all minerals in, on and under the subdivisions described above, the tract containing 27.13 acres, more or less, described above, and the "Cooper-Neel" tract more particularly described below.

**Cooper-Neel Tract**

All that certain portion of the Tierra Amarilla Grant, Rio Arriba County, State of New Mexico, described as follows, to-wit:

Beginning at a point on the West boundary line of the said Tierra Amarilla Grant, 4,622.4 feet Northerly from the Southwest corner thereof, an old crossmark scribed on top of sandstone ledge at southerly edge of high mesa, also marked "S.W.C.A.E.M.B." and running; thence South 48 degrees 13 minutes East 710 feet, a large boulder on a protruding point of said mesa marked "1-A-E.M.B." on top;

Thence South 77 degrees 24 minutes east 193 feet to the Southeast corner of the tract of E.M. Biggs, a ledge rock on the edge of said mesa, marked "1,S.E.C.A.E.M.B." whence a pine 16 inches diameter, blazed and scribed "S.T.A.S.E.C.B.N.B." bears North 4 degrees 30 minutes East 19.9 feet;

Thence North 40 degrees 14 minutes east 8,499 feet; a sandstone 30"x30" on edge of said mesa and marked "LA 5 EMB" on top whence a spruce 10 inches diameter blazed on marked "B.T.A." bears South 63 degrees 20 minutes East 12 feet;

Thence North 35 degrees 41 minutes East 1,190 feet to ledge rock on edge of said mesa, Marked "1-A, 6 E.M.B.", thence North 33 degrees 16 minutes east 595 feet to a ledge rock on edge of said mesa marked "A.7 E.M.B." Thence North 12 degrees 31 minutes East 1,490 feet to a point on the South line of a tract designated as "Tract No. 1" and formerly deeded to one E.M. Biggs by the Arlington Land Co., herein mentioned a sandstone 8"x12"x24" on the edge of said mesa and marked "N.E.C.A.E.M.B." on south side and "E.M.B." on north side, whence a pipe 18 inches diameter, blazed and marked "A.T.N.E.C.A.E.M.B." bears South 51 degrees 40 minutes West 20.7 feet; thence coincident with the South line of said Biggs Tract North 59 degrees 22 minutes East 15,258.5 feet to the center line of the Chama River.

## Exhibit C



MINERAL INTEREST DEED

MAUREEN E. UNDERWOOD, a married woman dealing with her sole and separate property (Grantor), for consideration paid, grants to JICARILLA APACHE NATION, a federally recognized Indian Tribe (Grantee), whose address is Hawks Drive, P.O. Box 507, Dulce, New Mexico 87528, all of Grantor's interest in and to the oil, gas and other minerals in and under and that may be produced from the following described land situated in Rio Arriba County, New Mexico.

Those lands described in that certain Warranty Deed from Edward Sargent and Estelle B. Sargent to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in Book 51, Page 244 in the Office of the County Clerk of Rio Arriba County, New Mexico, and those lands described in that certain Warranty Deed from Virbeth Land Company to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in Book 51, Page 249 in the Office of the County Clerk of Rio Arriba County, New Mexico.

Together with the rights of ingress and egress at all times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals, and storing, handling, transporting and marketing the same therefrom.

Subject to: Any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease heretofore executed and now of legal record; it being understood and agreed that said Grantee shall have, receive and enjoy the herein granted interest of Grantor in and to all bonuses, rents, royalties, and other benefits, which may accrue thereunder from and after the date hereof.

In witness whereof, I have executed this deed on this 21 day of June, 2012.

*Maureen E. Underwood*  
MAUREEN E. UNDERWOOD

STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me on June 21, 2012, by Maureen E. Underwood.

Witness my hand and official seal.

Commission:  
**DONALD A BURKHARDT**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
**MY COMMISSION EXPIRES 9-17-13**

*Donald A Burkhardt*  
Notary Public

B: 535 P: 2893 Doc Id: 2012-02893 Francella  
06/25/2012 04:28 PM  
Receipt # 8116 Page 1 of 1 Doc Code: MINDO  
Hollan A. Morales Jr. County Clerk & Recorder Rio Arriba, New Mexico



MINERAL INTEREST DEED

EDWARD SARGENT BINKLEY, a married man dealing in his sole and separate property, and joined herein by his wife, JANE ELLEN BINKLEY, *Pro Forma*, EDWARD L. BINKLEY, III, a married man dealing in his sole and separate property, and joined herein by his wife, CECILIA BINKLEY, *Pro Forma*, EDWARD STEVEN BINKLEY, a single man dealing in his sole and separate property, and VIRGINIA S. BINKLEY and her successors-in-interest, as Trustee of THE VIRGINIA S. BINKLEY REVOCABLE TRUST U/A dated August 25, 1995, for consideration paid, grant to JICARILLA APACHE NATION, a federally recognized Indian Tribe, whose address is P.O. Box 507, Dulce, New Mexico, 87528 all of the Grantors' interest in and to the oil, gas and other minerals in and under and that may be produced from the following described land situated in Rio Arriba County, New Mexico,

Those lands described in that certain Warranty Deed from Virbeth Land Company to Ranch de Rio Arriba, Inc. dated September 27, 1955, and filed for record in Book 51, Pages 249-251 in the Office of the County Clerk of Rio Arriba County, New Mexico, a copy of which Warranty Deed is appended hereto as Exhibit "A".

TOGETHER WITH the rights of ingress and egress at all times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals, and storing, handling, transporting and marketing the same therefrom.

SUBJECT TO: Any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease heretofore executed and now of legal record; it being understood and agreed that said Grantee shall have, receive and enjoy the herein granted interest of the Grantors in and to all bonuses, rents, royalties and other benefits which may accrue thereunder from and after date hereof.

IN WITNESS WHEREOF, we, hereunto have set our hands and seals this 25<sup>th</sup> day of June, 2012.

Edward Sargent Binkley  
EDWARD SARGENT BINKLEY

Jane Ellen Binkley  
JANE ELLEN BINKLEY, *Pro Forma*

B: 535 P: 2986 Doc Id: 2012-02986 Francella  
05/28/2012 03:55 PM  
Receipt #: 8187 Page 1 of 8 Doc Code: MINDD  
Hector R. Morales Jr., County Clerk & Recorder Rio Arriba, New Mexico



Edward L Binkley III  
EDWARD L. BINKLEY, III

Cecilia Binkley  
CECILIA BINKLEY, *Pro Forma*

THE VIRGINIA S. BINKLEY REVOCABLE  
TRUST U/A dated August 25, 1995

By: Virginia S Binkley  
VIRGINIA S. BINKLEY, Trustee

Edward Steven Binkley  
EDWARD STEVEN BINKLEY

MINERAL INTEREST DEED - Page 2

B: 535 P: 2986 Doc Id: 2012-02986 Francella

06/28/2012 03:55 PM  
Receipt #: 8187 Page 2 of 8 Doc Code: MINDD  
Melissa A. Morales Jr., County Clerk & Recorder Rio Arriba, New Mexico



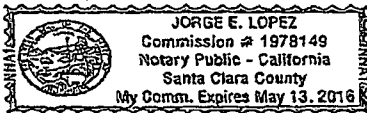
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California )

County of Santa Clara ) ss.

On Jun 7, 2012, 2012 before me, Jorge E. Lopez  
Date Name and Title of the Officer

personally appeared Edward S. Binkley Jane Ellen Binkley  
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature \_\_\_\_\_  
Signature of Notary Public

MINERAL INTEREST DEED - Page 3

B: 535 P: 2986 Doc Id: 2012-02986 Francella

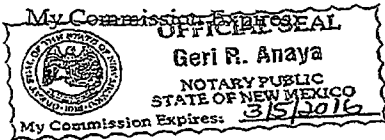
06/28/2012 03:55 PM  
Receipt #: 5187 Page 3 of 8 Doc Code: MINDO  
Francisco R. Barrios Jr., County Clerk & Recorder Rio Arriba, New Mexico



STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

The foregoing instrument was acknowledged before me by EDWARD L. BINKLEY, III,  
and CECILIA BINKLEY, *Pro Forma*, Trustee, this 25 day of June  
2012.

Geri R. Anaya  
Notary Public



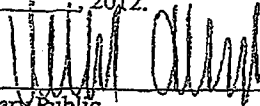
MINERAL INTEREST DEED - Page 4

B: 535 P: 2986 Doc Id: 2012-02986 Francella  
06/28/2012 03:55 PM  
Receipt #: 8187 Page 4 of 8 Doc Code: MINDD  
Helene M. Hovland Jr. County Clerk & Recorder Rio Grande, New Mexico



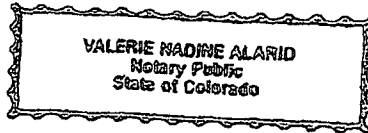
STATE OF COLORADO )  
COUNTY OF Denver ) ss.

The foregoing instrument was acknowledged before me by VIRGINIA S. BINKLEY,  
Trustee, this 14 day of June, 2012.

  
\_\_\_\_\_  
Notary Public

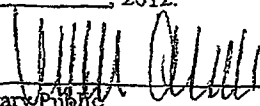
My Commission Expires:

My Commission Expires  
February 17, 2013



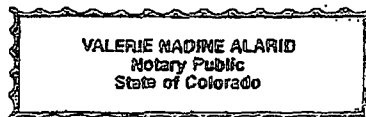
STATE OF COLORADO )  
COUNTY OF Denver ) ss.

The foregoing instrument was acknowledged before me by EDWARD STEVEN  
BINKLEY this 14 day of June, 2012.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

My Commission Expires  
February 17, 2013



MINERAL INTEREST DEED - Page 5

B: 535 P: 2986 Doc Id: 2012-02986 Francella  
06/20/2012 03:55 PM  
Receipt #: 0187 Page 5 of 8 Doc Code: MINOD  
Rebecca A. Morales Jr., County Clerk & Recorder Rio Arriba, New Mexico

a tract contains the most northerly three thousand (3000) acres of that certain tract of land deeded Hall, Nossaman-Dudrow by the Arlington Land Company on the 21st day of November, 1917, and located or near "El Poso" and described as follows:

Beginning at the Southwest corner of a certain tract of land heretofore deeded by The Arlington Land Company to one Jose R. Martinez, a point designated by a sandstone 3"x11"x16" set in a mound of stones, marked "S.W. Cor. J. M." on East and "J.L." on west side, whence pine ten inches diameter bears south 27 degrees 15 minutes West 15 feet, a pine ten inches diameter bears North 25 degrees 15 minutes East 15 feet, each blazed and marked "B.T."; and running thence East coincident with the South line of the said Jose R. Martinez tract a distance of 19,077.7 feet to the Northwest corner of tract of land heretofore deeded by The Arlington Land Company to Carlos Manzanarez; thence South, coincident with the West line of the said Carlos Manzanarez tract and the East boundary of the Hall, Nossaman and Dudrow tract, being described, which is marked by a stone 12"x12"x8" marked "S.E.D. 2set in a mound of stones; thence West and parallel to the South line of the said Jose R. Martinez tract to a point on the West boundary line of the said Hall-Nossaman-Dudrow tract, marked by a stone 12"x12" x8" marked "S.W.D." set in a mound of stones; thence North along said West boundary a distance of 6814 feet to the point of beginning. (said West boundary being coincident with the East boundary of Loomer Tract.) THERE IS EXPRESSLY RESERVED from this conveyance the following described lots located in El Vado Acres, or, as it is sometimes known, Laguna Vista Subdivision, all as shown on a plat filed in the office of the County Clerk of Rio Arriba County, New Mexico:

Name of Original Grantee	Lot	Block	Records of Rio Arriba County	
			(Book)	(Page)
Leman, Arthur E. and Mamie V	1 & 2	1	25	617
brick, John H. and Jesamine	26, 27, 28	3	25	595
nes, Mary R.	1, 2, 7, 8, 13	2	25	571
lls, Thomas & Ethel	7, 8	1	26	56
aser, Mae	20	1	25	572
ter, C.R. and Nellie M	18	2	25	634
bern, Bernhart	9, 10	7	26	25
tright, Richard D.	9	8	26	37
erman, William A.	8	8	23-A	29
er, C. E. and Mary	1, 2, 3, 4, 5, 6, 7, 8, 9, & 10	6	26	69
vester, Mrs. M.F. and/or Mae Gundy	1, 2, 3, 4, & 5	8	23-A	25
, Lolah H. (Mrs.)	21, 22, 23, 24, 25	6	23-A	85
rnberger, Henry J.	6	8	26	24
ver, Ernest L.	10	8	23-A	79
ler, Tez and Elsie A.	17	8	23-A	123
rnberger, Henry J.	9	9	23-A	40
nes, Frances W.	29, 30	14	24-A	225
aman, Arthur E.	14	9	(UNKNOWN)	
mesneau, Serna (Mrs.)	11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27	7	(UNKNOWN)	
h, Frances	28, 29, 30	12	(UNKNOWN)	
h, Rosa H.	8	4	(UNKNOWN)	
art, Debbie	9, 10	2	(UNKNOWN)	



The grantor, however, reserves unto itself and its assigns, forever, one-fourth (1/4) of all oil, gas and other minerals of whatever character that it may at the time of this conveyance own in and under the above described tracts of land.

This conveyance is further subject to all recorded reservations, exceptions and excluded tracts as set out in prior conveyances and which are binding upon the grantor.

with warranty covenants.

(Seal)

Attest:

Virginia S. Binkley,  
Secretary

COUNTY OF DENVER

On this 27th day of September, 1955, before me personally appeared Virginia S. Binkley and Elizabeth Sargent Burkart to me personally known, who being by me duly sworn, did say that they are President and Secretary as aforesaid of the VIRBETH LAND COMPANY, a corporation organized under the laws of the State of New Mexico, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its board of directors, and said parties acknowledged said instrument to be the free act and deed of said corporation.

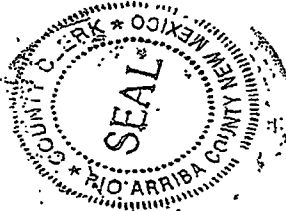
(Seal affixed)

My commission expires Sept. 10, 1958

• (4 - \$2.00 documentary stamps affixed)

(1- .10 cents documentary stamp affixed)

(1- .02 n n n n)



B: 535 P: 2986 Doc Id: 2012-02986 Francella

06/28/2012 03:55 PM  
Receipt #: 8187 Page 8 of 8 Doc Code: MINDD  
Haines A. Morales Jr. County Clerk & Recorder Rio Arriba, New Mexico



MINERAL INTEREST DEED

LEVI PESATA, President of the JICARILLA APACHE NATION, a federally recognized Indian Tribe (Grantor), whose address is Hawks Drive, P.O. Box 507, Dulce, New Mexico 87528, hereby convey all of the Grantor's interest in and to the oil gas and other minerals from the following described land situated in Rio Arriba County, New Mexico, the mineral interests conveyed by Edward Sargent Binkley, Jane Ellen Binkley, Edward L. Binkley, III, Cecilia Binkley, The Virginia S. Binkley Revocable Trust U/A dated August 25, 1995; Virginia S. Binkley, Trustee and Edward Steven Binkley to the Jicarilla Apache Nation on this 25<sup>th</sup> day of June, of 2012 by mineral deed recorded on July 28, 2012 at 3:55 p.m. in the Rio Arriba County Recorder Office of New Mexico to

the lands described in that certain Warranty Deed from Edward Sargent and Estelle B. Sargent to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in Book 51, Page 244 in the Office of the County Clerk of Rio Arriba County, New Mexico, and those lands described in that certain Warranty Deed from Virbeth Land Company to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in book 51, Page 249 in the Office of the County Clerk of Rio Arriba County, New Mexico.

Together with the rights of ingress and egress at all times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals, and storing, handling, transporting and marketing the same therefrom.

Subject to: Any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease heretofore executed and now of legal record.

In witness whereof, I have executed this deed on this 15th day of August, 2012.

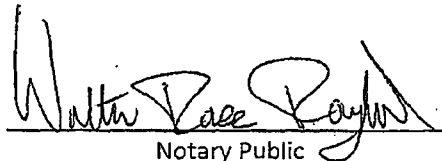
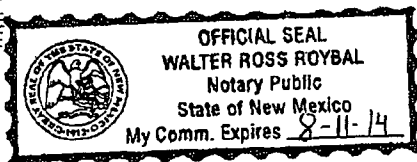


Levi Pesta, Jicarilla Apache Nation President

The foregoing instrument was acknowledged before me on 15<sup>th</sup> day of August 2012  
by Walter Ross Roybal.

Commission:

(SEAL)

  
Notary Public

MINERAL INTEREST DEED

LEVI PESATA, President of the JICARILLA APACHE NATION, a federally recognized Indian Tribe (Grantor), whose address is Hawks Drive, P.O. Box 507, Dulce, New Mexico 87528, hereby convey all of the Grantor's interest in and to the oil gas and other minerals from the following described land situated in Rio Arriba County, New Mexico, the mineral interest conveyed by Elisa Beth Denning to the Jicarilla Apache Nation on this 20<sup>th</sup> day of June, of 2012 by mineral deed recorded on July 25, 2012 at 1:28 p.m. in the Rio Arriba County Recorder Office of New Mexico to

the lands described in that certain Warranty Deed from Edward Sargent and Estelle B. Sargent to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in Book 51, Page 244 in the Office of the County Clerk of Rio Arriba County, New Mexico, and those lands described in that certain Warranty Deed from Virbeth Land Company to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in book 51, Page 249 in the Office of the County Clerk of Rio Arriba County, New Mexico.

Together with the rights of ingress and egress at all times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals, and storing, handling, transporting and marketing the same therefrom.

Subject to: Any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease heretofore executed and now of legal record.

In witness whereof, I have executed this deed on this 15th day of August, 2012.

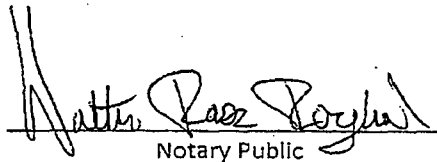
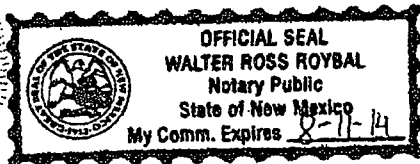


Levi Pesta, Jicarilla Apache Nation President

The foregoing instrument was acknowledged before me on 15<sup>th</sup> day of August 2012  
by Walter Ross Roybal.

Commission:

(SEAL)



Notary Public

MINERAL INTEREST DEED


LEVI PESATA, President of the JICARILLA APACHE NATION, a federally recognized Indian Tribe (Grantor), whose address is Hawks Drive, P.O. Box 507, Dulce, New Mexico 87528, hereby convey all of the Grantor's interest in and to the oil gas and other minerals from the following described land situated in Rio Arriba County, New Mexico, the mineral interest conveyed by Maureen Underwood to the Jicarilla Apache Nation on this 21<sup>st</sup> day of June, of 2012 by mineral deed recorded on July 25, 2012 at 1:28 p.m. in the Rio Arriba County Recorder Office of New Mexico to

the lands described in that certain Warranty Deed from Edward Sargent and Estelle B. Sargent to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in Book 51, Page 244 in the Office of the County Clerk of Rio Arriba County, New Mexico, and those lands described in that certain Warranty Deed from Virbeth Land Company to Ranch de Rio Arriba, Inc. dated September 27, 1955 and filed for record in book 51, Page 249 in the Office of the County Clerk of Rio Arriba County, New Mexico.

Together with the rights of ingress and egress at all times for the purpose of mining, drilling, exploring, operating and developing said lands for oil, gas and other minerals, and storing, handling, transporting and marketing the same therefrom.

Subject to: Any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease heretofore executed and now of legal record.

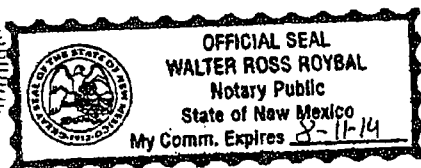
In witness whereof, I have executed this deed on this 15th day of August, 2012.

  
Levi Pesta, Jicarilla Apache Nation President

The foregoing instrument was acknowledged before me on 15<sup>th</sup> day of August 2012,  
by Walter Ross Roybal.

Commission:

(SEAL)



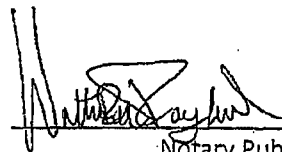
  
Notary Public

Exhibit D



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

RECEIVED OOD

2010 AUG 26 P 4: 45

IN THE MATTER OF THE APPLICATION OF  
BLUE DOLPHIN PRODUCTION LLC FOR AN  
UNORTHODOX WELL LOCATION AND NON-  
STANDARD OIL SPACING AND PRORATION  
UNIT, RIO ARriba COUNTY, NEW MEXICO.

CASE NO. 14548

APPLICATION

BLUE DOLPHIN PRODUCTION, LLC, ("Blue Dolphin") by and through its attorneys, Montgomery and Andrews, P.A. (J. Scott Hall, Esq.), hereby makes application pursuant to *inter alia* Rule 19.15.15.13 and the applicable statewide rules governing oil well locations (Rule 19.15.15.19.A), and 19.15.15.11 NMAC of the Division's Rules and Regulations for an order approving the unorthodox well location for the Theis Greenhorn Test Well No. 1 and the formation of a non-standard oil well spacing and proration unit comprised of  $21.0 \pm$  acres located in the approximate equivalent of the E/2 SW/4 NE/4 of projected Section 27, T30N, R1E in Rio Arriba County, New Mexico. In support, Applicant states:

1. Applicant is the operator of the following well:

Theis Greenhorn Test Well No. 1  
1643' FNL and 1575' FEL (G)  
Projected Section 27, T30N, R1E  
Rio Arriba County, New Mexico

2. Applicant proposes to drill this straight-hole well to a depth sufficient to test the Greenhorn member of the undesignated Mancos Shale formation (WC30N1E27). The well is prospective for oil. The nearest production is in the Boulder field approximately 11 miles to the west and the well is defined as a wildcat under the Division's rules. The statewide rules for wildcat oil wells currently provide that wells shall be drilled no closer than 330' to the outer boundary of a standard 40-acre spacing unit.

3. Blue Dolphin seeks an exception from the applicable well location rules for the Theis Greenhorn Test Well No. 1 for the following reason: (1) The well is located in an unsurveyed area within the Tierra Amarilla land grant. The section/township/range description of the location is based on unofficial, projected township and section lines from an adjoining survey and therefore, it is not possible to state the proximity to actual section lines or quarter-quarter subdivisions boundaries with certainty. However, the location descriptions by latitude/longitude and by reference to the New Mexico State Plane Coordinate System referenced on the C-102 for the well are accurate. (2) Although this well is not subject to the Design and Operational Standards for Oil and Gas Development of Rio Arriba County Ordinance No. 2009-01, it has been sited at the proposed location in consultation with Rio Arriba County planning and zoning department staff, as well as with representatives of the BIA, BLM and Jicarilla Apache Nation. In locating the well, terrain limitations, access roads, proximity to water features, and compatibility with existing land uses were taken into consideration.

4. The location for this well is not located closer than 660' to any existing well or a well that is known to be planned. Blue Dolphin Production, LLC or its affiliates owns or controls the majority of the leasehold working interest in each of the adjoining spacing units toward which the location encroaches and Blue Dolphin would be the operator of each of those units. Further, the mineral interest ownership underlying the proposed unit within projected Section 21 and each of the spacing units toward which the well encroaches is identical.

5. Applicant also seeks approval of a  $21.0 \pm$  acre non-standard spacing and proration unit to be dedicated to the referenced well and comprised of the approximate E/2 SW/4 NE/4 of projected Section 27.

6. The statewide oil well location and acreage dedication rules applicable to wildcat wells provide that oil wells shall be located on a spacing unit "...*consisting of approximately 40 contiguous surface acres, substantially in the form of a square that is a legal subdivision of the United States public land survey and is a governmental quarter-quarter section or lot..*". See Rule 19.15.15.9.A. Rule 19.15.15.11 B(1) authorizes approval of non-standard units when necessitated by "*a variation in the legal subdivision of the United States public land surveys...*" In this circumstance, the variation results from the application of the *projected* survey and the proximity to Jicarilla Apache Nation tribal lands on the western boundary of the unit.

7. Within the 40 acres comprising the equivalent of the SW/4 NE/4 of projected Section 27, the approximate W/2 SW/4 NE/4 are reservation system lands administered by the BIA and Jicarilla Apache Nation. These lands have not been consolidated with the remainder of the lands comprising the approximate E/2 SW/4 NE/4.

8. Designation of the non-standard unit will permit future development patterns in the surrounding projected units to remain consistent with the projected section subdivision boundaries. Approval of the non-standard unit will afford the Applicant the opportunity to produce its just and equitable share of hydrocarbons underlying the spacing unit, will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

WHEREFORE Applicant requests that this Application be set for hearing before a duly appointed examiner of the Oil Conservation Division on September 30, 2010, and that after notice and hearing as required by law, the Division enter its Order approving the unorthodox well location and the designation of the non-standard spacing unit

Respectfully submitted,

MONTGOMERY & ANDREWS, P. A.

By: J. Scott Hall

J. Scott Hall

P.O. Box 2307

Santa Fe, NM 87504-2307

(505) 982-3873 - Telephone

(505) 982-4289 - Fax

Attorneys for Blue Dolphin Production, LLC

00213771

**Exhibit E**

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

ORIGINAL

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 14548  
APPLICATION OF BLUE DOLPHIN PRODUCTION,  
LLC FOR UNORTHODOX WELL LOCATION IN  
NONSTANDARD SPACING UNIT,  
RIO ARriba COUNTY, NEW MEXICO

\*\*\*\*\*  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING  
\*\*\*\*\*

BEFORE: MR. TERRY WARNELL, Technical Examiner  
MR. DAVID K. BROOKS, Legal Examiner

September 30, 2010

Santa Fe, New Mexico

This matter came on for hearing before the New  
Mexico Oil Conservation Division, TERRY WARNELL,  
Technical Examiner and DAVID K. BROOKS, Legal Examiner,  
on Thursday, September 30, 2010, at the New Mexico  
Energy, Minerals and Natural Resources Department, 1220  
South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jeannine K. Sims, RPR, NM CCR #12  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105

PAUL BACA PROFESSIONAL COURT REPORTERS

ea3b8f95-7886-40d5-b473-6033206a348a

A P P E A R A N C E S

FOR THE APPLICANT:

Mr. J. Scott Hall  
MONTGOMERY & ANDREWS  
325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
505-670-7362  
shall@montand.com

WITNESSES:

PAGE

Richard D. Volecek:

Direct Examination by Mr. Hall	4
Examination by Examiner Brooks	13
Examination by Examiner Warnell	15

EXHIBITS 1 THROUGH 5 WERE ADMITTED	13
------------------------------------	----

REPORTER'S CERTIFICATE	19
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1 HEARING OFFICER BROOKS: I saw some people  
2 come in. We had a call from someone who was coming from  
3 Espanola. Are they among the people who came in?

4 UNKNOWN SPEAKER: Yes.

5 HEARING OFFICER BROOKS: Everybody's here?  
6 Let's take a ten-minute recess and then we'll go on with  
7 the remaining case.

8 (Break.)

9 HEARING OFFICER BROOKS: Okay. At this time  
10 we'll call Case No. 14548, application of Blue Dolphin  
11 Production, LLC for unorthodox well location in  
12 nonstandard spacing unit, Rio Arriba County, New Mexico.  
13 Call for appearances.

14 MR. HALL: Mr. Examiner, Scott Hall,  
15 Montgomery and Andrews law firm, Santa Fe, appearing on  
16 behalf of the applicant Blue Dolphin, LLC with one  
17 witness this morning.

18 HEARING OFFICER BROOKS: Okay. Will the  
19 witness be sworn.

20 (One witness was sworn.)

21 RICHARD VOLECEK,  
22 having been first duly sworn testified as follows:

23 \* \* \*

24 E X A M I N A T I O N

25 BY HEARING OFFICER BROOKS:



1 Q. Would you state your name for the record,  
2 please.

3 A. Richard D. Volecek.

4 HEARING OFFICER BROOKS: You may proceed,  
5 Mr. Hall.

6 Q. (BY MR. HALL) Again for the record, state  
7 your name and tell us where you live.

8 A. Richard D. Volecek, 33 Conifer Drive,  
9 Evergreen, Colorado.

10 Q. Who are you employed, Mr. Volecek?

11 A. Blue Dolphin Production and Discovery  
12 Exploration as manager of the New Mexico project and  
13 geophysicist by training.

14 Q. All right. You have previously testified  
15 before the Division and had your credentials accepted; is  
16 that correct?

17 A. Correct.

18 Q. Would you give the hearing examiner a brief  
19 summary of your educational background and work  
20 experience.

21 A. I have BS in geophysical engineering from  
22 Colorado School of Mines in 1970. Initially started  
23 working with Humble which then became Exxon, got 40 years  
24 of continuous experience in the oil industry, 15 years  
25 working on west bank of the San Juan Basin and Chama

1 Basin. Started really a little bit in the late '70s.  
2 And then from 1990 on countiously working on the  
3 Jicarilla reservation off on the east flank of the basin  
4 into the Chama Basin.

5 Q. Are you familiar with the lands in the  
6 application in this matter?

7 A. Yes.

8 MR. HALL: At this point, Mr. Examiner, we  
9 offer Mr. Volecek as a qualified expert petroleum  
10 geophysicist.

11 HEARING OFFICER BROOKS: So qualified.

12 Q. (BY MR. HALL) Mr. Volecek, tell us what  
13 Blue Dolphin is asking by its application.

14 A. We want to gain authorization for the  
15 establishment of a non-standard unit for the drilling of  
16 a well of an unorthodox location to test the Greenhorn  
17 and Mancos formation. It's on unsurveyed lands bordering  
18 the Jicarilla Apache reservation.

19 Q. All right. Let's turn to Exhibit 1, if you  
20 would identify that and tell us what that shows us.

21 A. This covers the area of Township 30 North  
22 Range 1 East, Section 27. The north/south green line on  
23 the map indicates the boundary of the Jicarilla  
24 reservation to the west and the Theis Ranch our leased  
25 area to the east proposed location is shown in the

1 southeast of the northeast of Section 27, and our  
2 proposed spacing is the east half of that southeast of  
3 the northeast.

4 Q. And what is the size of your proposed  
5 non-standard unit?

6 A. 21 acres.

7 Q. Okay. What's the primary objective for the  
8 well?

9 A. The Mancos formation and secondary is the  
10 Greenhorn formation just below the Mancos.

11 Q. These are 40-acre wildcat oil wells for this  
12 area?

13 A. Yes.

14 Q. And Blue Dolphin has the right to drill in  
15 the proposed non-standard unit?

16 A. Yes. Blue Dolphin has an 8e percent mineral  
17 interest leased within that spacing unit or proposed  
18 spacing unit.

19 Q. Now, explain to us why you're seeking a  
20 non-standard unit rather than a standard 40-acre unit.

21 A. The well is proposed to be drilled on the  
22 Theis Ranch which is an unsurveyed area so the sections  
23 have not been defined. The Theis Ranch borders the  
24 Jicarilla Apache reservation. We have selected an  
25 optimum location for the location within the Theis Ranch

1 leased portion based on seismic control and project in  
2 the Township range and sections onto the unsurveyed Theis  
3 Ranch. This resulted in a 21-acre spacing unit.

4 Q. Let's turn to Exhibit 2. Is Exhibit 2 a  
5 copy of the Division C 102 form that you intend to file  
6 with the Division for this well?

7 A. Yes.

8 Q. And does it show the unorthodox location for  
9 the well?

10 A. Yes.

11 Q. The footage locations? Would you read those  
12 into the record, please.

13 A. We are 335 feet off of the Jicarilla  
14 boundary, 1575 feet from the east line of the section and  
15 1643 feet from the north line of the section.

16 Q. Now, because this area is unsurveyed how  
17 were the boundaries of the sections' subdivision  
18 established?

19 A. They were projected in from the Jicarilla  
20 reservation where the area has been surveyed up to the  
21 boundary line. So we just projected them on across.

22 Q. And your proposed unit is located entirely  
23 east of the reservation boundary; is that right?

24 A. Yes.

25 Q. The latitude and longitudinal position of the

1 well shown on the C 102 is accurate; is that correct?

2 A. Yes.

3 Q. Are the minerals underlying the west half  
4 equivalent of Unit G owned by the Jicarilla nation?

5 A. Yes.

6 Q. Have you attempted to obtain a lease or a  
7 mineral development agreement from the Jicarilla nation  
8 for those minerals?

9 A. Yes. We have attempted to lease lands on  
10 the Jicarilla reservation and were informed in that area  
11 they weren't leasable and would never be leasable.

12 Q. Now, Blue Dolphin owns the majority of the  
13 working interest in your proposed unit?

14 A. Yes.

15 Q. And those -- the owner of those interests  
16 were shown on Exhibit 1; is that correct?

17 A. Yes, sir. The Jicarilla reservation shows  
18 it has 100 percent minerals in surface on the Theis Ranch  
19 acreage it's hundred percent Jicarilla surface. And then  
20 it shows our lease positions with the remaining 16.63  
21 percent open, which is owned by the Jicarilla Apache  
22 nation.

23 Q. Does Blue Dolphin have any lease expiration  
24 issues on the acreage it controls?

25 A. Yes. We have a portion that's leased from

1 the Theis family that goes out October 9th of this year  
2 but it is extendable by an additional payment.

3 Q. Now, is the inability to include the tribal  
4 acreage in the west half of Unit G in a standard 40-acre  
5 unit preventing Blue Dolphin from drilling and developing  
6 the acreage it now owns or controls?

7 A. Yes.

8 Q. And if the non-standard unit is not approved  
9 will Blue Dolphin proceed to drill the well?

10 A. No.

11 Q. And if the well is not drilled is there a  
12 reasonable likelihood that waste will result?

13 A. Yes.

14 Q. Now, have the Jicarilla nation and the BLM  
15 been notified of this application?

16 A. Yes, they have. The Jicarilla interest we  
17 are attempting to work out a mineral development  
18 agreement at this time and we have worked out a surface  
19 use agreement as they own a hundred percent of the  
20 surface. We are working through the BIA and the BLM as  
21 well as through the state.

22 Q. To your knowledge, have either of the BIA,  
23 BLM or the Jicarilla nation expressed an objection to the  
24 proposed non-standard unit?

25 A. No, sir.

1 Q. And have they objected to the unorthodox  
2 location?

3 A. Nope. No, sir.

4 Q. Now, with respect to the unorthodox location  
5 why was this particular physical location selected?

6 A. If we can go to Exhibit 3.

7 Q. What is Exhibit 3?

8 A. It's a topo map showing the proposed  
9 location, the Jicarilla reservation boundary and the  
10 Theis Ranch boundary to -- or the Theis ranch onto the  
11 east of the proposed location is in red. As you can see  
12 it's a very rough terrain. We selected that location  
13 based on proprietary seismic, proprietary geochem data as  
14 well as surface topography and surface geology.

15 Q. And the BLM and the tribe were both informed  
16 of the proposed location?

17 A. Yes. We had meetings with all of them.

18 Q. And the surface where the well is located,  
19 is that tribal surface?

20 A. Yes.

21 Q. Now, is the unorthodox location more than  
22 340 feet from the western boundary of the proposed  
23 non-standard unit?

24 A. Yes.

25 Q. And is Blue Dolphin the operator of each of

1 the 40-acre subdivisions towards which the location  
2 encoaches?

3 A. Yes. Blue Dolphin has a consistent 83  
4 percent mineral interest in all of the offset locations.

5 Q. All right. And again, that ownership is  
6 shown on your plat Exhibit 1?

7 A. On the land plat, yes.

8 Q. Let's look at your geology exhibits if you  
9 would turn to Exhibit 4.

10 A. Okay. Exhibit 4 is a structure map on the  
11 Greenhorn formation in time. And then I have noted on  
12 that map also some depth numbers. The plat shows the  
13 seismic control we have in the area. That map is based  
14 on two lines, the north/south line and the northeast/  
15 southwest line.

16 It is proprietary data, you can see the  
17 proposed location in Section 27 where all the 40-acre  
18 units are outlined. It shows dip back to the west, the  
19 Mancos formation based on all the research in the area is  
20 a gravity drainage situation so we should be draining oil  
21 from up tip of that location which is off to the east.

22 Q. So you're satisfied that the relative rights  
23 of the mineral interest owner to the west will not be  
24 adversely acted by this location?

25 A. Yes.



1 Q. And your location is sensitive to geology  
2 structure?

3 A. Yes.

4 Q. Let's look at Exhibit 5 briefly. Would you  
5 identify that, please.

6 A. That's a well log from a well Blue Dolphin  
7 drilled a few miles to the south that shows the  
8 formations we're looking at for production. The Mancos A  
9 is noted on there, production in the area has come from  
10 the Mancos A, B and C formations that are noted as well  
11 as the Greenhorn formation that is right below the Mancos  
12 that is also a fractured shale that we have produced from  
13 in this well.

14 Q. You have a reasonable expectation that these  
15 productive wells will be present at your location?

16 A. Yes.

17 Q. And do you anticipate that the proposed  
18 non-standard unit will be productive --

19 A. Yes.

20 Q. -- prospective? And can the non-standard  
21 unit be efficiently and economically drained by the one  
22 well at that location?

23 A. Yes.

24 Q. In your opinion will granting Blue Dolphin's  
25 application be in the best interest of conservation,

1 prevention of waste, protection of relative rights?

2 A. Yes.

3 Q. Were Exhibit 1 through 5 prepared by you or  
4 at your direction?

5 A. Yes.

6 MR. HALL: Completes our direct of the  
7 witness, Mr. Examiner. We move the introduction of  
8 Exhibits 1 through 5.

9 HEARING OFFICER BROOKS: 1 through 5 are  
10 admitted.

11 \* \* \*

12 E X A M I N A T I O N

13 BY HEARING OFFICER BROOKS:

14 Q. Okay. What is the size of this unit that  
15 you propose, this non-standard unit?

16 A. 21 acres.

17 Q. 21 acres?

18 A. Yes, sir.

19 Q. And you said that the tribe had been given  
20 notice of this application, correct?

21 A. Yes, sir. By our attorneys and I also went  
22 to Dolce and had meetings with them.

23 Q. And they were given notice of hearing?

24 MR. HALL: Yes. I have a notice affidavit  
25 to submit.

1 HEARING OFFICER BROOKS: Very good.

2 Q. (BY HEARING OFFICER BROOKS) You said Blue  
3 Dolphin owned 83 percent mineral interest in the  
4 offsetting quarter quarters?

5 A. Yes, sir, they have at least.

6 Q. Yeah. The offsetting quarter quarters would  
7 be the northeast of the northeast and the northwest of  
8 the northeast and the southeast of the northeast.  
9 Because looks like it's less than 330 from both the north  
10 and the east lines of the projected section; is that  
11 correct?

12 A. Yes, I believe it is 330 from the north line  
13 of our quarter quarter section but they do own --

14 Q. That Says 1643. It would have to be 1650 if  
15 it were a standard section.

16 A. Okay.

17 Q. But does Blue Dolphin own its 83 percent  
18 mineral interest in all three of those quarter quarters?

19 A. Yes, except for where it gets into the  
20 Jicarilla Apache reservation.

21 Q. Okay. That is, in the portion of the  
22 north -- in the northeast -- northwest/northeast, the  
23 western portion of that is in the reservation?

24 A. Yes, sir.

25 Q. Now, does the tribe own the other 17 percent

1 of the mineral interests?

2 A. Yes, sir.

3 Q. Okay.

4 A. It's held in trust by the BIA.

5 Q. Okay. There are no other interest owners  
6 other than the Blue Dolphin and the tribe then?

7 A. Correct.

8 Q. Okay. Does Blue Dolphin own the sections to  
9 the south also?

10 A. Okay.

11 Q. Are they quarter quarter sections to the  
12 south also?

13 A. Yes, sir, once we cross the Jicarilla  
14 reservation boundary.

15 Q. So the ownership is the same to the north  
16 and to the south?

17 A. Yes, sir.

18 HEARING OFFICER BROOKS: Okay. I believe  
19 that's all my questions. Mr. Warnell?

20 \* \* \*

21 E X A M I N A T I O N

22 BY MR. WARNELL:

23 Q. Yeah. Mr. Volecek, I admire the fact that  
24 you live in Evergreen but yet work the San Juan area.  
25 That's quite a deal. You made mention that the Jicarilla

1 would not lease and would never lease. Why is that? Why  
2 would they say something like that?

3 A. You would probably be better asking them  
4 that, but that's what they told me, that area they  
5 consider important to their tribe and they are not  
6 interested in leasing it. They are not leasing much at  
7 this point but when I attempted to do that, I have a play  
8 over in that area, I've worked on the reservation before,  
9 shot a lot of seismic data and they said no, that will  
10 never be leased that's important culturally to our tribe.

11 Q. Never is a long time.

12 A. Yes. And it does change with as they get  
13 new directors I guess but that's what I was told.

14 Q. Now, this is I understand an oil play?

15 A. Yes, sir.

16 Q. So Macos oil play. And the well depth is  
17 going to be in the neighborhood of --

18 A. 2400 feet.

19 Q. 2400 feet. That won't take you very long to  
20 drill that, right? Vertical?

21 A. We think three days.

22 Q. Interesting. What other Mancos oil  
23 production do you have in that area? You mentioned at  
24 least one well I believe.

25 A. If You go south of there a few miles we

1 drilled -- Blue Dolphin drilled five Mancos Greenhorn  
2 tests, all of which were productive, but they are not  
3 commercial. We would frac the wells and they'd come on  
4 at 50 to 70 barrels a day and die off to one barrel a  
5 day. There is no base fracture system in the area based  
6 on my seismic data. The area we want to drill now looks  
7 completely different seismically and I'm anticipating a  
8 fracture system generated by the big fault that runs  
9 through the area.

10 MR. WARNELL: Thank you. I have no further  
11 questions.

12 MR. HALL: Mr. Examiner, we would offer into  
13 evidence our Exhibit No. 6, which is our notice  
14 affidavit. Pursuant to earlier direction from the  
15 Division we provided notice to all interest owners within  
16 a mile, and all operators including the Jicarilla nation,  
17 the BLM, the BIA, as well as the mineral interest owners  
18 who are leased to Blue Dolphin. We had returns of  
19 service on everyone except for one interest owner, Ferne  
20 Marshall Theis was returned addressee unknown to us. But  
21 Blue Dolphin's testified, controls that particular  
22 mineral interest.

23 HEARING OFFICER BROOKS: Okay. Very good.

24 MR. HALL: That's all we have.

25 HEARING OFFICER BROOKS: If there's nothing

1 further then Case No. 14548 will be taken under  
2 advisement. And that being all the business set on this  
3 docket, we will stand adjourned.

4  
5  
6  
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8  
9  
10  
11  
12  
13  
14  
15  
16  
17 I do hereby certify that the foregoing is  
18 a complete record of the proceedings in  
19 the Examiner hearing of Case No. 14548  
20 heard by me on 9-30-2010  
21 David K. B... Examiner  
22 Oil Conservation Division  
23  
24  
25

1 THE STATE OF NEW MEXICO :  
2 COUNTY OF BERNALILLO :

3 BE IT KNOWN that the foregoing transcript of  
4 proceedings was taken by me; that I was then and there a  
5 Certified Court Reporter and Notary Public in and for the  
6 County of Bernalillo, State of New Mexico, and by virtue  
7 thereof, authorized to administer an oath; that the  
8 witness before testifying was duly sworn by me; that the  
9 foregoing 18 pages contain a true and accurate transcript  
10 of the proceedings, all to the best of my skill and  
11 ability.

12 I FURTHER CERTIFY that I am neither employed by  
13 nor related to nor contracted with (unless excepted by  
14 the Rules) any of the parties or attorneys in this case,  
15 and that I have no interest whatsoever in the final  
16 disposition of this case in any court.

17  
18  
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24  
25

*Jeanine Sims*

JEANNINE K. SIMS, CSR, RPR  
NM Certified Court Reporter #12  
License expires: 12/31/10  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102



Exhibit F

7


X/Y:  
Feet

334700

2107400

210

T 30 N R 1 E Sec. 27

P.L. 

Theis Ranch

Jicarilla Reservation

2102400

210

334700

Blue Dolphin Production

Project: Theis Ranch Greenhorn / Mancos Test

September 17, 2010

Scale = 1:14360

0 1197 2393 3590 ft

Lease Information  
EXHIBIT #

DISTRICT I  
1636 N. French Dr., Hobbs, N.M. 88240

DISTRICT II  
1301 W. Grand Avenue, Artesia, N.M. 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, N.M. 87410

DISTRICT IV  
1220 S. St. Francis Dr., Santa Fe, N.M. 87505

State of New Mexico  
Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, N.M. 87505

Form C 102  
Revised July 18, 2010

Submit one copy to appropriate  
District Office

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

1 API Number		2 Pool Code		3 Pool Name	
4 Property Code		5 Property Name THEIS GREENHORN TEST			6 Well Number
7 OGRID No.		8 Operator Name BLUE DOLPHIN PRODUCTION, LLC			9 Elevation 7676

10 Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
G	27	30 N	1 E		1643	NORTH	1575	EAST	RIO ARriba

11 Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
12 Dedicated Acres		13 Joint or Infill		14 Consolidation Code		15 Order No.			

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED  
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION.

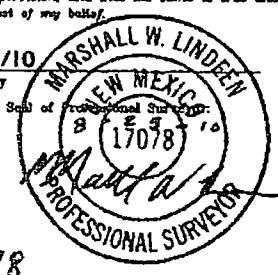
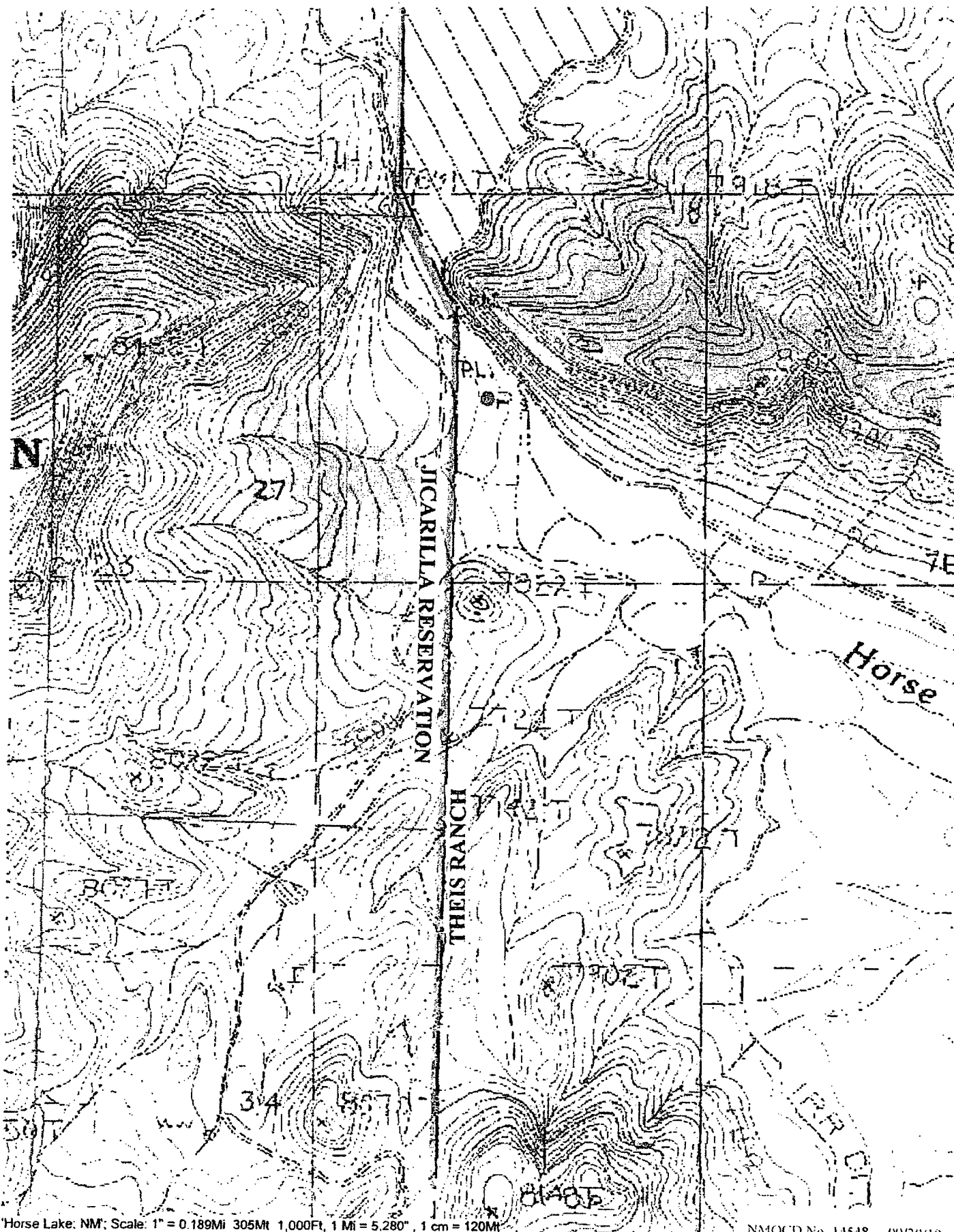
16 S 89°38' E 2630.1' (R) S 25°27' E-1061.94' 5170.44' (R)		290.4' (R) EAST 1643'		2362.82' (R)		17 OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.  Signature _____ Date _____ Printed Name _____ E-mail Address _____	
SECTION 27		335'		1575'		18 SURVEYOR CERTIFICATION I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.  06/03/10 Date of Survey Signature and Seal of Professional Surveyor:  17078 Certificate Number	
NOTES: 1. BEARINGS & DISTANCES SHOWN ARE RECORD, BASED UPON "TRUE NORTH" AND SURFACE DISTANCES.  2. THIS PLAT REPRESENTS SECTION LINES PROJECTED INTO THE TIERRA AMARILLA GRANT FOR MAPPING PURPOSES.		JICARILLA APACHE RESERVATION TIERRA AMARILLA GRANT S 0°08' W 4385.70' (R)		LAT: 36.7861946° N LONG: 106.8109160° W NAD 83  LAT: 36.7861816° N LONG: 106.8103212° W NAD 27			
N 0°15' W N 88°56' W 2653.2' (R)		721.07'		WEST 1918.02'			

Exhibit #



Horse Lake, NM; Scale: 1" = 0.189Mi 305M 1,000Ft, 1 Mi = 5,280", 1 cm = 120M

NMOCD No. 14548 09/30/10

Exh. 67 #

EXHIBIT 3



# HALLIBURTON

## HIGH RESOLUTION INDUCTION LOG

COMPANY BLUE DOLPHIN PRODUCTION, LLC

WELL EL POSO No. 5

FIELD WILDCAT

COUNTY RIO ARRIBA STATE NM

COMPANY BLUE DOLPHIN PRODUCTION, LLC

WELL EL POSO No. 5

FIELD WILDCAT

COUNTY RIO ARRIBA STATE NM

API No. 300392958500

Location 0550' FNL  
0955' FWL

Other Services  
SDU/DSN  
MEL

LAT - 36° 37' N  
LONG - 106° 48' W

Sect 23 Twp 28N Rge 01E

Permanent Datum GROUND LEVEL Elev 7104'

Log measured from K.B. 5 ft. above perm. datum

Drilling measured from KELLY BUSHING

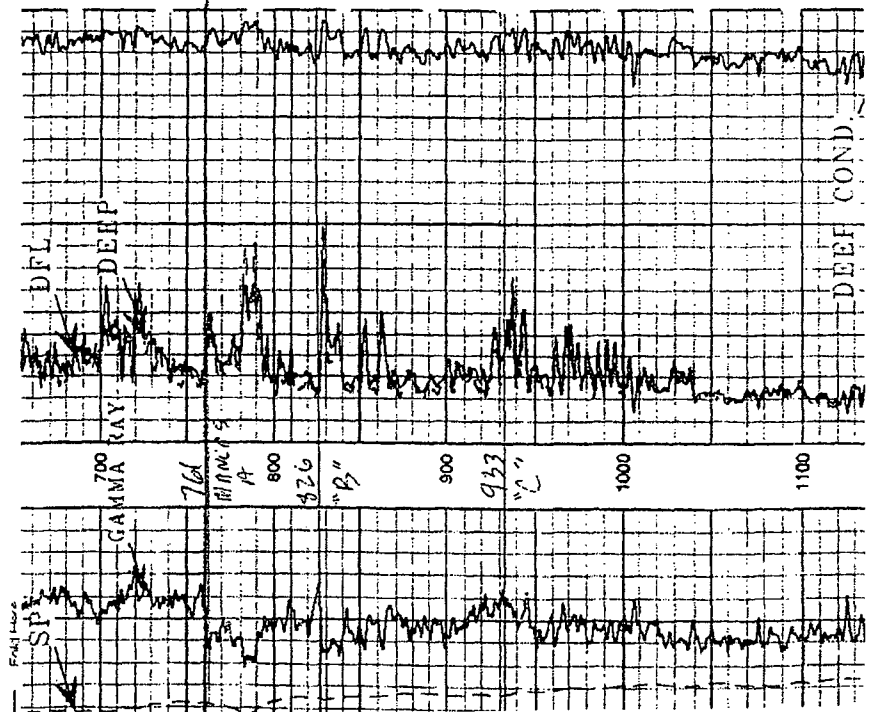
Elev. : K.B. 7109'

D.F. 7108'

G.L. 7104'

Date	08-09-05			
Run No.	ONE			
Depth - Driller	1805'			
Depth - Logger	1803'			
Bottom - Logged Interval	1793'			
Top - Logged Interval	CASING			
Casing - Driller	8.63" @ 179'	@	@	@
Casing - Logger	180'			
Bit Size	7.875"			
Type Fluid in Hole	H2O/POLY			
Dens.   Visc.	8.7   50			
Ph   Fluid Loss	8.0   9.5			
Source of Sample	FLOWLINE			
Rm @ Meas. Temp.	2.31 @ 68 F	@	@	@
Rmf @ Meas. Temp.	N/A @ N/A	@	@	@
Rmc @ Meas. Temp.	N/A @ N/A	@	@	@
Source Rmf   Rmc	N/A   N/A			
Rm @ BHT	1.532 @ 106 F	@	@	@
Time Since Circ.	08-09 2030			
Time on Bottom	08-10 0015			
Max. Rec. Temp.	106 F @ T.D.	@	@	@
Equip.   Location	49595   FMTN.			
Recorded By	E. MENENDEZ			
Witnessed By	B. SALZMAN			

MANCOS - A



## Exhibit G

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 14548  
ORDER NO. R-13326

APPLICATION OF BLUE DOLPHIN  
PRODUCTION LLC FOR AN UNORTHODOX  
WELL LOCATION AND NON-STANDARD  
OIL SPACING AND PRORATION UNIT, RIO  
ARRIBA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on September 30, 2010, at Santa Fe, New Mexico, before Examiner David K. Brooks.

NOW, on this 20<sup>th</sup> day of October, 2010, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due notice has been given, and the Division has jurisdiction of the subject matter of this case.

(2) In this application, Blue Dolphin Production LLC ("Applicant") seeks approval of (a) a non-standard oil well location in the Mancos and Greenhorn formations for its proposed Theis Greenhorn Test Well No. 1 (the well), to be located 1643 feet from the North line and 1575 feet from the East line (Unit G) of Projected Section 27, Township 30 North, Range 1 East, NMPM, in Rio Arriba County, New Mexico, and (b) a non-standard 21-acre, more or less, oil spacing and proration unit for the said well in the Mancos and Greenhorn formations, consisting of that portion of the SW/4 NE/4 of Projected Section 27 lying east of the eastern boundary of the Jicarilla Apache Reservation (being approximately the E/2 of the said quarter-quarter section).

(3) Applicant appeared at the hearing through counsel and presented testimony and exhibits to the effect that:



(a) Applicant proposes to drill the well at the above-described non-standard location in order to test the Mancos and Greenhorn formations. It expects the well to produce oil.

(b) This is a wildcat area, and spacing is governed by statewide rules which provide for 40-acre units, with wells to be located at least 330 feet from unit boundaries.

(c) Applicant selected the site for the well on the basis of proprietary seismic and proprietary geo-chem data, as well as topography within the proposed non-standard unit.

(d) The proposed non-standard unit is necessary because the western portion of the SW/4 SE/4 of Projected Section 27 is owned by the Jicarilla Apache Tribe, which has declined to lease this acreage. The only lands within the quarter-quarter section that will not be included in the proposed non-standard unit are those lands within the Jicarilla Apache Reservation.

(e) The proposed non-standard location is more than 330 feet from the eastern boundary of the Jicarilla Apache Reservation, but less than 330 feet from the eastern and northern boundaries of the SW/4 SE/4 of Projected Section 27. There are no oil or gas wells located on any of the offsetting units. Working interest and mineral ownership in the offsetting lands to the north, east and northeast is identical with ownership of the proposed unit.

(f) The Jicarilla Apache Tribe and all mineral owners in other adjoining tracts were duly notified of this application and of the hearing. Applicant's representatives have conferred with officials of the Jicarilla Apache Tribe who have specifically advised them that the Tribe does not oppose formation of the proposed non-standard unit.

(4) No other party appeared at the hearing or otherwise indicated opposition to the granting of this Application.

The Division concludes that:

(5) In view of the decision of the Jicarilla Apache Tribe not to lease its lands within the subject quarter-quarter section, approval of this non-standard unit is necessary to facilitate the drilling of the proposed well, thereby preventing waste.

(6) The exhibits offered in evidence indicate that any location within the proposed non-standard unit more than 330 feet from the boundary of the Jicarilla Apache Reservation would be non-standard to the east. While a location could have been selected that would be more than 330 feet from the northern unit boundary, in view of the identity of ownership, no one's correlative rights will be affected by location of the well less than 330 feet from the northern boundary of the unit.

(7) Accordingly, the proposed non-standard 21-acre, more or less, oil spacing and proration unit, and the proposed non-standard location for the well, should be approved.

**IT IS THEREFORE ORDERED THAT:**

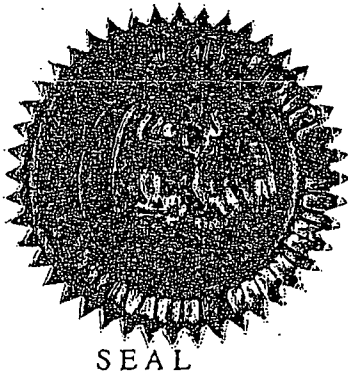
(1) Pursuant to the Application of Blue Dolphin Production LLC ("Applicant"), a non-standard 21-acre, more or less, wildcat oil spacing and proration unit is hereby established in the Mancos and Greenhorn formations, consisting of all of the SW/4 NE/4 of Projected Section 27, Township 30 North, Range 1 East, NMPM, in Rio Arriba County, New Mexico, lying east of the eastern boundary of the Jicarilla Apache Reservation.

(2) The unit described in Ordering Paragraph (1) shall be dedicated to Applicant's proposed Theis Greenhorn Test Well No. 1 (the well), to be located 1643 feet from the North line and 1575 feet from the East line (Unit G) of Projected Section 27.

(3) The unorthodox location of the well, as described in Ordering Paragraph (2), in the Mancos and Greenhorn formations, is hereby approved.

(4) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, P.E.  
Acting Director

## Exhibit H

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.

RECEIVED OCT  
2011 MAR 25 P 3 00

APPLICATION

Blue Dolphin Production, LLC, by its undersigned attorneys, Montgomery and Andrews, P.A. (J. Scott Hall), hereby makes application pursuant to *inter alia* Rule 19.15.13.8 of the Division's Rules and Regulations and NMSA 1978 Section 70-2-17 (1995) for an order providing as follows:

Pooling all interests in all pools or formations developed on 40-acre spacing within the Mancos Shale formation underlying the non-standard spacing and proration unit comprised of the approximate E/2 SW/4 NE/4 of projected Section 27, Township 30 North, Range 1 East in Rio Arriba County, New Mexico.

In support, Applicant states:

1. Applicant owns certain working interests in and under the proposed pooled unit in Section 27, and has the right to drill thereon. Previously, by Order No. R-13326, the Division approved the designation of the  $21.0 \pm$  acres comprising the E/2 SW/4 NE/4 of Section 27 as a non-standard spacing and proration unit

2. Applicant proposes to dedicate the above-referenced non-standard pooled unit to the Theis Greenhorn Test Well No. 1 to be drilled vertically from a location 1643 feet from the North line and 1575 feet from the East line (G) to a depth sufficient to test the Greenhorn

member of the Mancos Shale formation (WC30N1E27), underlying the E/2 SW/4 NE/4 of Section 27.

3. Applicant does not have leases or a voluntary agreement for development, pooling or farmout from certain other interest owners in the above-referenced formation underlying the proposed non-standard unit.

4. In order to permit the Applicant to obtain its just and fair share of the oil and gas underlying the subject lands, the mineral interests should be pooled and Applicant should be designated operator of the well.

5. The pooling of interests will afford the Applicant the opportunity to produce its just and equitable share of hydrocarbons underlying the non-standard spacing unit, will avoid the drilling of unnecessary wells, will prevent waste and will protect correlative rights.

WHEREFORE Applicant requests that this Application be set for hearing before a duly appointed examiner of the Oil Conservation Division on April 28, 2011, and that after notice and hearing as required by law, the Division enter its Order pooling the lands, including provisions for the operator to recover its costs of drilling, equipping and completing the well, its costs of supervision while drilling and after completion, including overhead charges and providing for adjustments to such rates in accordance with accepted COPAS accounting procedures, and imposing a 200% risk factor for the risk assumed by the operator in drilling, completing and equipping the well, and making such other and further provisions as maybe proper in the premises.

Respectfully submitted,

MONTGOMERY & ANDREWS, P. A.

By: J. Scott Hall

J. Scott Hall

P.O. Box 2307

Santa Fe, NM 87504-2307

(505) 982-3873 - Telephone

(505) 982-4289 - Fax

Attorneys for Blue Dolphin  
Production, LLC

00265347

## Exhibit I

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

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 14629  
Order No. R-13511

APPLICATION OF BLUE DOLPHIN PRODUCTION, L.L.C. FOR  
COMPULSORY POOLING, RIO ARIBA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on February 2, 2012, at Santa Fe, New Mexico, before Examiner Richard I. Ezeanyim.

NOW, on this 3<sup>rd</sup> day of February, 2012, the Division Director, having considered the record and the recommendations of the Examiner,

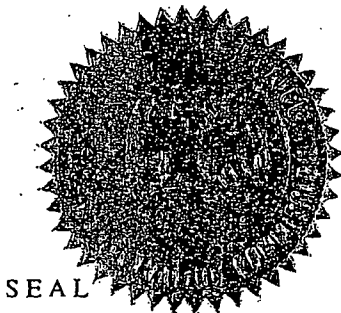
FINDS THAT:

The applicant's request for dismissal should be granted.

IT IS THEREFORE ORDERED THAT:

Case No. 14629 is hereby dismissed.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in dark ink, appearing to read "Jami Bailey".

JAMI BAILEY  
Director



## Exhibit J

DATE IN 8.16.11 SUSPENSE ENGINEER DB. LOGGED IN 8.16.11 TYPE NSL APP NO. 1127847580

ABOVE THIS LINE FOR DIVISION USE ONLY

**NEW MEXICO OIL CONSERVATION DIVISION**

- Engineering Bureau -

1220 South St. Francis Drive, Santa Fe, NM 87505



*Blue Dolphin*  
226829

*Theis Granham*

**ADMINISTRATIVE APPLICATION CHECKLIST** 30-039-31012

THIS CHECKLIST IS MANDATORY FOR ALL ADMINISTRATIVE APPLICATIONS FOR EXCEPTIONS TO DIVISION RULES AND REGULATIONS WHICH REQUIRE PROCESSING AT THE DIVISION LEVEL IN SANTA FE

**Application Acronyms:**

[NSL-Non-Standard Location] [NSP-Non-Standard Proration Unit] [SD-Simultaneous Dedication]  
[DHC-Downhole Commingling] [CTB-Lease Commingling] [PLC-Pool/Lease Commingling]  
[PC-Pool Commingling] [OLS - Off-Lease Storage] [OLM-Off-Lease Measurement]  
[WFX-Waterflood Expansion] [PMX-Pressure Maintenance Expansion]  
[SWD-Salt Water Disposal] [IPI-Injection Pressure Increase]  
[EOR-Qualified Enhanced Oil Recovery Certification] [PPR-Positive Production Response]

[1] TYPE OF APPLICATION - Check Those Which Apply for [A]

[A] Location - Spacing Unit - Simultaneous Dedication  
☒ NSL ☐ NSP ☐ SD

Check One Only for [B] or [C]

[B] Commingling - Storage - Measurement  
☐ DHC ☐ CTB ☐ PLC ☐ PC ☐ OLS ☐ OLM

[C] Injection - Disposal - Pressure Increase - Enhanced Oil Recovery  
☐ WFX ☐ PMX ☐ SWD ☐ IPI ☐ EOR ☐ PPR

[D] Other: Specify \_\_\_\_\_

[2] NOTIFICATION REQUIRED TO: - Check Those Which Apply, or X Does Not Apply

[A] ☐ Working, Royalty or Overriding Royalty Interest Owners  
[B] ☐ Offset Operators, Leaseholders or Surface Owner  
[C] ☐ Application is One Which Requires Published Legal Notice  
[D] ☐ Notification and/or Concurrent Approval by BLM or SLO  
U.S. Bureau of Land Management - Commissioner of Public Lands, State Land Office  
[E] ☒ For all of the above, Proof of Notification or Publication is Attached, and/or,  
[F] ☐ Waivers are Attached

[3] SUBMIT ACCURATE AND COMPLETE INFORMATION REQUIRED TO PROCESS THE TYPE OF APPLICATION INDICATED ABOVE.

[4] CERTIFICATION: I hereby certify that the information submitted with this application for administrative approval is accurate and complete to the best of my knowledge. I also understand that no action will be taken on this application until the required information and notifications are submitted to the Division.

Note: Statement must be completed by an individual with managerial and/or supervisory capacity.

J. Scott Hall

Signature

Title

Date

shall@montand.com  
e-mail Address

2011 AUG 11 P 2:29  
RECEIVED OGD

*See Case 14629  
- pushed to  
9/18/11  
- packed*



**MONTGOMERY  
& ANDREWS**  
LAW FIRM

J. SCOTT HALL

Office: (505) 986-2646  
Email: shall@montand.com  
Reply To: Santa Fe Office  
www.montand.com

RECEIVED OCD

2011 AUG 11 P 2:29

August 11, 2011

Ms. Jami Bailey, Director  
New Mexico Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Hand Delivered

Re: Blue Dolphin Production, LLC  
Request for Administrative Approval  
Unorthodox Well Location  
Undesignated Mancos Pool (66685); Undesignated Greenhorn Pool (66675)

Theis Greenhorn Test Well No. 1  
API No. 30-039-31012  
1796' FNL and 1469' FEL (G) (Surface)  
1796' FNL and 1069' FEL (H) (Bottom hole)  
Projected Section 27, T30N, R1E  
Rio Arriba County, New Mexico

Dear Ms. Bailey:

On behalf of Blue Dolphin Production, LLC ("Blue Dolphin") and pursuant to Division Rule 19.15.15.13 and the applicable statewide rules governing oil well locations (wildcat), we request administrative approval for an unorthodox well location for the Theis Greenhorn Test Well No. 1 to be drilled at the surface and bottom-hole locations reflected above.

This well will be drilled to a depth sufficient to test the Greenhorn and Mancos formations within the undesignated pools referenced above. The statewide rules for undesignated wildcat oil pools (19.15.15.9 A) currently provide that wells shall be located no closer than 330' to the boundary of a unit, with 40-acre units dedicated to the wells.

These lands are located within an un-surveyed portion of the Tierra Amarilla Land Grant and therefore the section lines in the area are projected. However, the latitudinal and longitudinal coordinates and the resulting footages from the projected subdivision boundaries for the surface and bottom hole locations of the well are accurate. These lands are known as the Theis Ranch, the surface of which is now

**REPLY TO:**

325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
Telephone (505) 982-3873 • Fax (505) 982-4289

Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

6301 Indian School Road NE, Suite 400  
Albuquerque, New Mexico 87110  
Telephone (505) 884-4200 • Fax (505) 888-8929

Post Office Box 36210  
Albuquerque, New Mexico 87176-6210

owned in trust for the benefit of the Jicarilla Apache Nation. Blue Dolphin owns record title to all of the oil and gas leasehold working interests covering 83.3685% of the fee mineral interest in the lands. The Jicarilla Apache Nation owns the remaining 16.63125% mineral interest. It is anticipated that the Nation's mineral interest will be committed to the well pursuant to a mineral development agreement with Blue Dolphin.

The APD originally approved for the Theis Greenhorn Test Well No. 1 (Exhibit A) reflected a vertical well that was to be drilled at a location 1,643' from the north line and 1,575 from the east line in the SW/4 NE/4 equivalent (Unit G) of Section 27. As shown by the enclosed topographic map (Exhibit B) the well site is located within the Horse Lake Creek drainage and is surrounded by hilly terrain. At the request of the Jicarilla Apache Nation Oil and Gas Administration, the surface location is being moved southeast within Unit G and will now be 1,796 feet from the north line and 1,469 feet from the east line of Section 27. Also at the request of the Jicarilla Apache Nation, the wellbore will be deviated to a bottom hole location 1,796 feet from the north line and 1,069 feet from the east line and the SE/4 NE/4 of projected Section 27 (Unit H) will be dedicated to the well as a standard 40-acre spacing and proration unit instead of the 21 acre  $\pm$  non-standard unit previously approved by the Division by Order No. R-13326. The amended C-102 for the well is attached as Exhibit C. In this case, the surface location is outside of, and approximately 149 feet from the western boundary of the unit that will be dedicated to the well.

The first target in the Mancos formation will be intercepted 1,219 feet from the east line and 1,796 from the north line of the section (250 feet east of the surface location) at a depth of approximately 1,300 feet. The second target will be the well's indicated bottom-hole location, 1,796 from the north line and 1,069 feet from the east line, at a depth of 2,400 feet, approximately 251' from the outer boundary of the SE/4 NE/4 of the section (Unit H).

Blue Dolphin is the operator of the adjoining non-standard unit (undrilled) toward which the unorthodox location encroaches. However, the ownership and quantum of the oil and gas leasehold and underlying mineral interests in both the SE/4 NE/4 of Section 27 and the adjoining unit to the west are identical. Therefore, no further notification is indicated under the Division's rules and practices and correlative rights are not an issue in any event.

Please note that this well is the subject of a pending compulsory pooling proceeding now pending on the examiner hearing docket. (Case No. 14629; *Application of Blue Dolphin Production, LLC for Compulsory Pooling, Rio Arriba County, New Mexico*). On execution of the Mineral Development Agreement between Blue Dolphin and the Jicarilla Apache Nation referenced above, and its approval by the Bureau of Indian Affairs, we anticipate that the Application in that case may be dismissed. The BIA, BLM and the Jicarilla Apache Nation are being provided with copies of this administrative application.

Ms. Jami Bailey, Director  
August 11, 2011  
Page 3

We also wish the Division to be informed that Blue Dolphin's oil and gas leases on the 83.3685% fee mineral interests on the subject lands (and others) all expire on October 5, 2011. Therefore, the Division is requested to approve this administrative application sufficiently in advance of the lease expiration date to allow for the timely commencement of drilling.

The Division's Administrative Application Checklist is enclosed.

Thank you for your consideration of this request. Should more information be required, please do not hesitate to contact me.

Very truly yours,

MONTGOMERY & ANDREWS, P. A.



J. Scott Hall  
Attorneys for Blue Dolphin Production, LLC

JSH:kw

Enclosures:  
Exhibit A C-101 and C-102  
Exhibit B Topographic Map  
Exhibit C Amended C-102  
Administrative Application Checklist

cc: Shenan Atcitty, Esq., Counsel for Jicarilla Apache Nation  
Steve Gunn, Esq., Counsel for Jicarilla Apache Nation  
Dixon Sandoval, Jicarilla Apache Nation Oil and Gas Director – certified mail  
George Thetrault, P.E., Bureau of Indian Affairs – certified mail  
Jim Lovato, BLM – Farmington – certified mail  
David Brooks, Esq., NMOCD  
Dick Dolecek, Blue Dolphin Production, LLC

District I  
1625 N. French Dr., Hobbs, NM 88240  
District II  
1301 W. Grand Avenue, Artesia, NM 88210  
District III  
1000 Rio Brazos Road, Aztec, NM 87410  
District IV  
1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico  
Energy Minerals and Natural Resources

Form C-101  
June 16, 2008

Oil Conservation Division  
1220 South St. Francis Dr.  
Santa Fe, NM 87505

Submit to appropriate District Office

☐ AMENDED REPORT

APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE

Operator Name and Address Blue Dolphin Production LLC, C/O Walsh Engineering & Production Corp 7415 E. Main St., Farmington, NM 87402		OGRID Number 226829
Property Code		API Number 30-039-31012
Property Name Theis Greenhorn Test		Well No. #1
Proposed Pool 1 66685 Undesignated Mancos		Proposed Pool 2 66675 Undesignated Greenhorn

Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
G	27	30N	1E		1643	North	1575	East	Rio Arriba

Proposed Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County

Additional Well Information

Work Type Code N	Well Type Code O	Cable/Rotary R	Lease Type Code P	Ground Level Elevation 7676
Multiple N	Proposed Depth 2,400'	Formation Dakota	Contractor TBD	Spud Date 04-15-2011

Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/foot	Setting Depth	Sacks of Cement	Estimated TOC
8 3/4"	7"	20#/J-55	200'	45	0
6 1/4"	4 1/2"	10.5#/J-55	2400'	175 Lead/100 Tail	0

Describe the proposed program. If this application is to DEEPEN or PLUG BACK, give the data on the present productive zone and proposed new productive zone. Describe the blowout prevention program, if any. Use additional sheets if necessary.

See attached drilling program

RCVD MAR 4'11  
OIL CONS. DIV.  
DIST. 3

Notify Aztec OCD 24 hours before Spud

I hereby certify that the information given above is true and complete to the best of my knowledge and belief.

Signature:

*S. Max Libby*

Printed name:

S. Max Libby

Title:

Agent for Blue Dolphin Production LLC

E-mail Address:

maxlibby@donellis-associates.com

Date:

03-04-2011

Phone:

505-326-1730

OIL CONSERVATION DIVISION

Approved by:

*Charles Heri* 3-8-11

Title:

SUPERVISOR DISTRICT # 3

Approval Date:

MAR 08 2011

Expiration Date:

MAR 08 2012

Conditions of Approval Attached ☐

A COMPLETE C-144 MUST BE SUBMITTED TO AND APPROVED BY THE NMOC FOR: A PIT, CLOSED LOOP SYSTEM, BELOW GRADE TANK, OR PROPOSED ALTERNATIVE METHOD, PURSUANT TO NMOC PART 19.15.17, PRIOR TO THE USE OR CONSTRUCTION OF THE ABOVE APPLICATIONS.

EXHIBIT A

DISTRICT I  
1825 N. French Dr., Hobbs, N.M. 88240

DISTRICT II  
1301 W. Grand Avenue, Artesia, N.M. 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, N.M. 87410

DISTRICT IV  
1220 S. St. Francis Dr., Santa Fe, N.M. 87505

State of New Mexico  
Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, N.M. 87505

Form C-102  
Revised July 18, 2010

Submit one copy to appropriate  
District Office

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

<sup>1</sup> API Number 30-039-31012	<sup>2</sup> Pool Code 66685	<sup>3</sup> Pool Name Undesignated MANCOS
<sup>4</sup> Property Code 38455	<sup>5</sup> Property Name THEIS GREENHORN TEST	<sup>6</sup> Well Number #1
<sup>7</sup> OGRIID No. 226829	<sup>8</sup> Operator Name BLUE DOLPHIN PRODUCTION, LLC	<sup>9</sup> Elevation 7676

<sup>10</sup>Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
G	27	30 N	1 E		1643	NORTH	1575	EAST	RIO ARriba

<sup>11</sup>Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
<sup>12</sup> Dedicated Acres 21		<sup>13</sup> Joint or Infill		<sup>14</sup> Consolidation Code		<sup>15</sup> Order No. R-13326			

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED  
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION.

<sup>16</sup> S 89°38' E 2630.1' (R) S 25°27' E-1061.94' 5170.44' (R)		EAST 2362.82' (R) 1643' 335' 1575'		<sup>17</sup> OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or undivided mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.  Signature: <i>S. M. LIBBY</i> Date: 03-04-2011 Printed Name: S. M. LIBBY E-mail Address: _____	
SECTION 27 N 0°15' W N 88°56' W 2653.2' (R) 721.07'		JICARILLA APACHE RESERVATION TIERRA AMARILLA GRANT S 0°08' W 4385.70' (R) WEST 1918.02'		<sup>18</sup> SURVEYOR CERTIFICATION I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.  Date of Survey: 06/03/10 Signature and Seal of Professional Surveyor: <i>Marshall W. Linden</i> Certificate Number: 17078	

DISTRICT I  
1625 N. French Dr., Hobbs, N.M. 88240

DISTRICT II  
1301 W. Grand Avenue, Artesia, N.M. 88210

DISTRICT III  
1000 Rio Brazos Rd., Aztec, N.M. 87410

DISTRICT IV  
1220 S. St. Francis Dr., Santa Fe, N.M. 87505

State of New Mexico  
Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, N.M. 87505

Form C-102

Revised July 16, 2010

Submit one copy to appropriate  
District Office

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

1 API Number		2 Pool Code		3 Pool Name	
4 Property Code		5 Property Name THEIS GREENHORN TEST			6 Well Number
7 GRID No.		8 Operator Name BLUE DOLPHIN PRODUCTION, LLC			9 Elevation 7668

10 Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
G	27	30 N	1 E		1796	NORTH	1469	EAST	RIO ARriba

11 Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
H	27	30 N	1 E		1796	NORTH	1069	EAST	RIO ARriba

12 Dedicated Acres		13 Joint or Infill		14 Consolidation Code		15 Order No.	
--------------------	--	--------------------	--	-----------------------	--	--------------	--

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED  
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION.

16 N 89°38' W 2630.1' (R)		EAST 2362.82' (R)		17 OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.  Signature _____ Date _____ Printed Name _____ E-mail Address _____	
S 25°27' E-1061.94'		1796'		5323.64' (R)	
SURFACE LOCATION LAT: 36.7857743° N LONG: 106.8105583° W NAD 83 LAT: 36.7857612° N LONG: 106.8099634° W NAD 27		LOT 7 (14.78) LOT 8 (22.39) 440'		1069'	
SECTION 27		1796'		BOTTOM HOLE LAT: 36.7857743° N LONG: 106.8091923° W NAD 83 LAT: 36.7857612° N LONG: 106.8085974° W NAD 27	
NOTES: 1. BEARINGS & DISTANCES SHOWN ARE RECORD, BASED UPON "TRUE NORTH" AND SURFACE DISTANCES. 2. THIS PLAT REPRESENTS SECTION LINES PROJECTED INTO THE TIERRA AMARILLA GRANT FOR MAPPING PURPOSES.		LOT 9 (22.04) LOT 10 (21.70)		18 SURVEYOR CERTIFICATION I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.  6/10/2011 Date of Survey Signature _____ REGISTERED PROFESSIONAL SURVEYOR 14831 14831-23-2011 Certificate Number	
LEGEND: ○ = SURFACE LOCATION ● = BOTTOM HOLE LOCATION ⊕ = FOUND 1988 B.L.M. BRASS CAP (C.C.) ⊙ = FOUND 1914 U.S.G.L.O. BRASS CAP (W.C.)		FORMER JICARILLA APACHE RESERVATION BOUNDARY TIERRA AMARILLA GRANT S 0°08' W 4385.70' (R)		SOUTH 1918.02'	
N 00°15' W N 88°56' W 2653.2' (R)		EAST 721.07'		WEST	

EXHIBIT C



## Exhibit K



# New Mexico Energy, Minerals and Natural Resources Department

**Susana Martinez**  
Governor

**John H. Bemis**  
Cabinet Secretary-Designate

**Brett F. Woods, Ph.D.**  
Deputy Cabinet Secretary

**Jami Bailey**  
Division Director  
Oil Conservation Division



September 12, 2011

Blue Dolphin Production, LLC  
c/o Montgomery & Andrews Law Firm  
Attn: Mr. J. Scott Hall, Esq.

Administrative Order NSL-6462  
Administrative Application Reference No: pTWG11-22847580

Blue Dolphin Production, LLC  
OGRID 226829  
Theis Greenhorn Test Well No. 1  
API No. 30-039-31012

#### Proposed Locations

all in projected Section 27, Township 30 North, Range 1 East, Rio Arriba County, New Mexico:

	Footages from section line	Unit Letter (Assumed Equivalent)
Surface Location	1796 FNL & 1469 FEL	G
PP Mancos	1796 FNL & 1219 FEL	H
PPGreenhorn	1796 FNL & 1069 FEL	H
Bottom Hole	1796 FNL & 1069 FEL	H

#### The proposed oil spacing units:

Description	Acres	Pool
SE/4 NE/4	40	Wildcat Mancos Oil
SE/4 NE/4	40	Wildcat Greenhorn Oil

Reference is made to your application received on August 11, 2011:

You have requested to drill this well at an unorthodox oil well location described above in the referenced pool or formation. This location is governed by statewide Rule 15.9.A [19.15.15.9.A NMAC], which provides for 40-acre units, with wells located at least 330 feet from a unit outer boundary, and Rule 15.16.14.B(2) [19.15.16.14.B(2) NMAC] concerning directional wells in designated project areas. This location is unorthodox because portions of the proposed producing interval are less than 330 feet from an outer boundary of the project area.

Oil Conservation Division \* 1220 South St. Francis Drive  
\* Santa Fe, New Mexico 87505

\* Phone: (505) 476-3440 \* Fax (505) 476-3462 \* <http://www.emnrd.state.nm.us>



Your application has been duly filed under the provisions of Division Rules 15.13 [19.15.15.13 NMAC] and 4.12.A(2) [19.15.4.12.A(2) NMAC].

It is our understanding that you are seeking this location for topographic reasons, in order to accommodate hilly terrain within the Horse Lake Creek drainage.

It is also understood that you have given due notice of this application to all operators or owners who are "affected persons," as defined in Rule 4.12.A(2), in all adjoining units towards which the proposed location encroaches.

Pursuant to the authority conferred by Division Rule 15.13.B, the above-described unorthodox location is hereby approved.

This approval is subject to your being in compliance with all other applicable Division rules, including, but not limited to Division Rule 5.9 [19.15.5.9 NMAC].

Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

Sincerely,



Jami Bailey  
Director

JB/wvjj

cc: New Mexico Oil Conservation Division – Aztec  
Bureau of Land Management – Farmington

Exhibit L



**MONTGOMERY  
& ANDREWS**  
LAW FIRM

J. Scott Hall  
Office: (505) 982-3873  
Email: shall@montand.com  
Reply To: Santa Fe Office  
www.montand.com

July 24, 2012

Ms. Jami Bailey, Director  
New Mexico Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

Hand Delivered



Re: Heritage Petroleum, Inc.  
Request for Amendment to Administrative Order NSL-6462  
Unorthodox Well Location  
Mancos Pool (97881); Undesignated Greenhorn Pool (66675)

Theis Greenhorn Test Well No. 1  
API No. 30-039-31012  
1796' FNL and 1469' FEL (G) (Surface and bottom hole)  
Projected Section 27, T30N, R1E  
Rio Arriba County, New Mexico

Dear Ms. Bailey:

On behalf of Heritage Petroleum, Inc. ("Heritage") and pursuant to Division Rule 19.15.15.13 and the applicable statewide rules governing oil well locations (wildcat), we request the Division's approval of an amendment to the previously approved unorthodox well location for the Theis Greenhorn Test Well No. 1 to be drilled at the surface and bottom-hole locations reflected above. Heritage Petroleum, Inc. is the successor to Blue Dolphin Production LLC, the original operator which applied for and received Order NSL-6462 in 2011 (Exhibit A). Order NSL-6462 authorized the directional drilling of the Theis Greenhorn Test Well No. 1 from the surface location referenced above to a bottom hole location 1796' FNL and 1069' FEL. Instead of directionally drilling, Heritage now plans to drill the well vertically from the same surface location previously approved. This is the only amendment to NSL-6462 that Heritage seeks.

**REPLY TO:**

325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
Telephone (505) 982-3873 • Fax (505) 982-4289

Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

6301 Indian School Road NE, Suite 400  
Albuquerque, New Mexico 87110  
Telephone (505) 884-4200 • Fax (505) 888-8929

Post Office Box 36210  
Albuquerque, New Mexico 87176-6210

Ms. Jami Bailey, Director  
July 24, 2012  
Page 2

This well will be drilled to a depth sufficient to test the Greenhorn and Mancos formations within the undesignated pools referenced above. The statewide rules for undesignated wildcat oil pools (19.15.15.9 A) currently provide that wells shall be located no closer than 330' to the boundary of a unit, with 40-acre units dedicated to the wells. Heritage will make separate application for Division approval of a 61± acre non-standard oil spacing and proration unit which it will dedicate to the well. The non-standard unit will consist of the 21± acres comprising the approximate E/2 SW/4 NE/4 of Section 27 with the 40 acres located in the SE/4 NE/4 of the section.

These lands are located within an un-surveyed portion of the Tierra Amarilla Land Grant and therefore the section lines and subdivision inner-boundaries in the area are projected. However, the location description by latitude/longitude and by reference to the State Plane Coordinate System referenced on the C-101 (Exhibit B) and the C-102 for the well (Exhibit C) are accurate. These lands are known as the Theis Ranch, the surface of which is now owned by the Jicarilla Apache Nation. Heritage owns or controls all of the oil and gas leasehold working interests covering the majority of the fee mineral interest in the lands. The Jicarilla Apache Nation owns an undivided 16.63125% of the mineral interest.

The APD originally approved for the Theis Greenhorn Test Well No. 1 reflected a vertical well that was to be drilled at a location 1,643' from the north line and 1,575' from the east line in the SW/4 NE/4 equivalent (Unit G) of Section 27 in order to honor a seismic data point. (See Order No. R-13326, October 20, 2010.) As shown by the enclosed topographic map (Exhibit D) the well site is located within the Horse Lake Creek drainage and is surrounded by uneven terrain. At the request of the Jicarilla Apache Nation Oil and Gas Administration, the surface location was moved southeast within Unit G to 1,796 feet from the north line and 1,469 feet from the east line of Section 27 as approved by NSL-6462. In this case, the resulting well location is approximately 149 feet from the western boundary of the SE/4 NE/4.

Heritage Petroleum is the operator of the adjoining unit toward which the unorthodox location encroaches. However, the ownership and quantum of the oil and gas leasehold and underlying mineral interests in both the approximate E/2 SW/4 NE/4 and the SE/4 NE/4 of projected Section 27 are identical. Therefore, no further notification is indicated under the Division's rules and practices and correlative rights are not an issue in any event.

The Division's Administrative Application Checklist is enclosed.

Ms. Jami Bailey, Director  
July 24, 2012  
Page 3

Thank you for your consideration of this request. Should more information be required, please do not hesitate to contact me.

Very truly yours,  
MONTGOMERY & ANDREWS, P. A.



J. Scott Hall  
Attorneys for Heritage Petroleum, Inc.

JSH:kw

Enclosures:

- Administrative Application Checklist
- Exhibit A Administrative Order NSL-6462
- Exhibit B C-101
- Exhibit C C-102
- Exhibit D Topographic Map

cc: Dixon Sandoval, Jicarilla Apache Nation Oil and Gas Director – certified mail  
George Thetrault, P.E., Bureau of Indian Affairs – certified mail  
Jim Lovato, BLM – Farmington – certified mail  
Mike Smith, Heritage Petroleum  
Dick Dolecek, Discovery Exploration

DATE	SUSPENSE	ENGINEER	LOGGED IN	TYPE	APP NO.
------	----------	----------	-----------	------	---------

ABOVE THIS LINE FOR DIVISION USE ONLY

# NEW MEXICO OIL CONSERVATION DIVISION

- Engineering Bureau -

1220 South St. Francis Drive, Santa Fe, NM 87505



## ADMINISTRATIVE APPLICATION CHECKLIST

THIS CHECKLIST IS MANDATORY FOR ALL ADMINISTRATIVE APPLICATIONS FOR EXCEPTIONS TO DIVISION RULES AND REGULATIONS WHICH REQUIRE PROCESSING AT THE DIVISION LEVEL IN SANTA FE

### Application Acronyms:

[NSL-Non-Standard Location] [NSP-Non-Standard Proration Unit] [SD-Simultaneous Dedication]  
 [DHC-Downhole Commingling] [CTB-Lease Commingling] [PLC-Pool/Lease Commingling]  
 [PC-Pool Commingling] [OLS - Off-Lease Storage] [OLM-Off-Lease Measurement]  
 [WFX-Waterflood Expansion] [PMX-Pressure Maintenance Expansion]  
 [SWD-Salt Water Disposal] [IPI-Injection Pressure Increase]  
 [EOR-Qualified Enhanced Oil Recovery Certification] [PPR-Positive Production Response]

### [1] TYPE OF APPLICATION - Check Those Which Apply for [A]

[A] Location - Spacing Unit - Simultaneous Dedication  
 X NSL ☐ NSP ☐ SD

Check One Only for [B] or [C]

[B] Commingling - Storage - Measurement  
☐ DHC ☐ CTB ☐ PLC ☐ PC ☐ OLS ☐ OLM

[C] Injection - Disposal - Pressure Increase - Enhanced Oil Recovery  
☐ WFX ☐ PMX ☐ SWD ☐ IPI ☐ EOR ☐ PPR

[D] Other: Specify \_\_\_\_\_

### [2] NOTIFICATION REQUIRED TO: - Check Those Which Apply, or X Does Not Apply

[A] ☐ Working, Royalty or Overriding Royalty Interest Owners

[B] ☐ Offset Operators, Leaseholders or Surface Owner

[C] ☐ Application is One Which Requires Published Legal Notice

[D] ☐ Notification and/or Concurrent Approval by BLM or SLO  
 U.S. Bureau of Land Management - Commissioner of Public Lands, State Land Office

[E] X For all of the above, Proof of Notification or Publication is Attached, and/or,

[F] ☐ Waivers are Attached

### [3] SUBMIT ACCURATE AND COMPLETE INFORMATION REQUIRED TO PROCESS THE TYPE OF APPLICATION INDICATED ABOVE.

[4] CERTIFICATION: I hereby certify that the information submitted with this application for administrative approval is accurate and complete to the best of my knowledge. I also understand that no action will be taken on this application until the required information and notifications are submitted to the Division.

Note: Statement must be completed by an individual with managerial and/or supervisory capacity.

J. Scott Hall

*J. Scott Hall*

Attorney for Applicant

7/24/2012

Print or Type Name

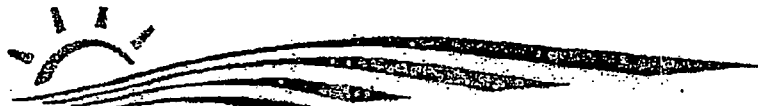
Signature

Title

Date

shall@montand.com  
 e-mail Address





# New Mexico Energy, Minerals and Natural Resources Department

**Susana Martinez**  
Governor

**John H. Bemis**  
Cabinet Secretary-Designate

**Brett F. Woods, Ph.D.**  
Deputy Cabinet Secretary

**Jami Bailey**  
Division Director  
Oil Conservation Division



September 12, 2011

Blue Dolphin Production, LLC  
c/o Montgomery & Andrews Law Firm  
Attn: Mr. J. Scott Hall, Esq.

Administrative Order NSL-6462  
Administrative Application Reference No: pTWG11-22847580

Blue Dolphin Production, LLC  
OGRID 226829  
Theis Greenhorn Test Well No. 1  
API No. 30-039-31012

Proposed Locations  
all in projected Section 27, Township 30 North, Range 1 East, Rio Arriba County, New Mexico:

	Footages from section line	Unit Letter (Assumed Equivalent)
Surface Location	1796 FNL & 1469 FEL	G
PP Mancos	1796 FNL & 1219 FEL	H
PP Greenhorn	1796 FNL & 1069 FEL	H
Bottom Hole	1796 FNL & 1069 FEL	H

The proposed oil spacing units:

Description	Acres	Pool
SE/4 NE/4	40	Wildcat Mancos Oil
SE/4 NE/4	40	Wildcat Greenhorn Oil

Reference is made to your application received on August 11, 2011:

You have requested to drill this well at an unorthodox oil well location described above in the referenced pool or formation. This location is governed by statewide Rule 15.9.A [19.15.15.9.A NMAC], which provides for 40-acre units, with wells located at least 330 feet from a unit outer boundary, and Rule 15.16.14.B(2) [19.15.16.14.B(2) NMAC] concerning directional wells in designated project areas. This location is unorthodox because portions of the proposed producing interval are less than 330 feet from an outer boundary of the project area.

Oil Conservation Division  
**EXHIBIT A**  
Francis Drive

\* Santa Fe, New Mexico 87505  
\* Phone: (505) 476-3440 \* Fax (505) 476-3462 \* <http://www.emnrd.state.nm.us>



Your application has been duly filed under the provisions of Division Rules 15.13 [19.15.15.13 NMAC] and 4.12.A(2) [19.15.4.12.A(2) NMAC].

It is our understanding that you are seeking this location for topographic reasons, in order to accommodate hilly terrain within the Horse Lake Creek drainage.

It is also understood that you have given due notice of this application to all operators or owners who are "affected persons," as defined in Rule 4.12.A(2), in all adjoining units towards which the proposed location encroaches.

Pursuant to the authority conferred by Division Rule 15.13.B, the above-described unorthodox location is hereby approved.

This approval is subject to your being in compliance with all other applicable Division rules, including, but not limited to Division Rule 5.9 [19.15.5.9 NMAC].

Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

Sincerely,



Jami Bailey  
Director

JB/wvjj

cc: New Mexico Oil Conservation Division – Aztec  
Bureau of Land Management – Farmington

District 1  
 1625 N. French Dr., Hobbs, NM 88240  
 Phone: (505) 393-6161 Fax: (505) 393-6720  
 District 2  
 214 S. First St., Lordsburg, NM 88320  
 Phone: (505) 746-1035 Fax: (505) 746-9720  
 District 3  
 1820 N. Denver Road, Aztec, NM 87410  
 Phone: (505) 333-6176 Fax: (505) 333-6176  
 District 4  
 1220 S. S. French Dr., Grants, NM 87020  
 Phone: (505) 475-3466 Fax: (505) 475-3466

State of New Mexico  
 Energy Minerals and Natural Resources  
 Oil Conservation Division  
 1120 South St. Francis Dr.  
 Santa Fe, NM 87305

Form C-101  
 Revised December 18, 2011

**APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE**

Operator Name and Address <b>Heritage Petroleum, Inc. P.O. Box 935 Stillwater, OK 74076</b>		Occident Number <b>029682</b>
		API Number <b>03-039-31012</b>
Property Code <b>38455</b>	Property Name <b>Theirs Greenhorn Test</b>	Well No. <b>#1</b>

7 Surface Location									
UTM Zone <b>G</b>	Section <b>27</b>	Township <b>30N</b>	Range <b>1E</b>	Lot No.	Section <b>1796 ft</b>	NS Line <b>North</b>	East Point <b>1469 ft</b>	RTW Line <b>East</b>	County <b>Rio Arriba</b>

8 Pool Information	
Proposed Pool #1 - WC 2730N1E Mancos(O) #97881 Proposed Pool #2 - Undesignated Greenhorn #66673	

Additional Well Information				
Well Type <b>N</b>	Well Type <b>O</b>	Casing Type <b>Rotary</b>	Lease Type <b>P</b>	Ground Level Elevation <b>7668 ft</b>
Well Depth <b>N</b>	Proposed Depth <b>2400 ft</b>	Formation <b>Dakota</b>	Completion <b>TBD</b>	Shut-In Date <b>10/15/12</b>
Depth to Groundwater <b>Unknown</b>		Distance from nearest fresh water well <b>Unknown</b>		Distance to nearest surface water <b>1060 ft</b>

9 Proposed Casing and Cement Program						
Type	Hole Size	Casing Size	Casing Weight	Setting Depth	Stacks of Cement	Estimated D/C
	12-1/4"	8-5/8"	24# L-55	500 ft	330 slks	0
	7-7/8"	5-1/2"	15.5# L-55	2400 ft	800 lead/170 tail	0

Casing/Cement Program Additional Comments

Proposed Blowout Prevention Program			
Type	Working Pressure	Test Pressure	Manufacturer
Double Ram	2000 psi	1000 psi	Halliburton

I hereby certify that the information given above is true and complete to the best of my knowledge and belief. I further certify that the drilling job will be constructed according to NMOCED guidelines <input type="checkbox"/> a general permit <input type="checkbox"/> or an (attached) alternative OGD-approved plan <input checked="" type="checkbox"/> .  Signature: <i>Mike D. Smith</i> Printed name: Mike D. Smith Title: President E-mail Address: <a href="mailto:heritagepetroleum@gmail.com">heritagepetroleum@gmail.com</a> Date: 7/19/12 Phone: 405-377-2689	<b>OIL CONSERVATION DIVISION</b>	
	Approved By: _____	
	Title: _____	
	Approved Date: _____	Expiration Date: _____
	Attached: _____	

**EXHIBIT B**

1400 N. Santa Fe, Santa Fe, N.M.  
 Phone (505) 995-5111 Fax (505) 995-5112  
 1400 N. Santa Fe, Santa Fe, N.M.  
 Phone (505) 995-5111 Fax (505) 995-5112  
 1400 N. Santa Fe, Santa Fe, N.M.  
 Phone (505) 995-5111 Fax (505) 995-5112  
 1400 N. Santa Fe, Santa Fe, N.M.  
 Phone (505) 995-5111 Fax (505) 995-5112

State of New Mexico  
 Energy, Minerals & Natural Resources Department  
**OIL CONSERVATION DIVISION**  
 1220 South St. Francis Dr.  
 Santa Fe, N.M. 87505

Form C-102  
 Revised August 1, 2011  
 Submit one copy to appropriate  
 District Office

☐ AMENDED REPORT

**WELL LOCATION AND ACREAGE DEDICATION PLAT**

API Number <b>50-039-31012</b>	Well Code <b>97881</b>	Well Name <b>WG 2730NDIE MANCOS (O)</b>
Property Name <b>THEIS GREENHORN TEST</b>	Well Number <b>#1</b>	
Section No. <b>029682</b>	Operator Name <b>HERITAGE PETROLEUM, INC</b>	Elevation <b>7668</b>

Surface Location									
Oil or Gas Well	Section	Township	Range	Lat. Lon.	East from line	North/South line	East from line	East/West line	County
<b>6</b>	<b>27</b>	<b>30 N</b>	<b>1 E</b>		<b>1706</b>	<b>NORTH</b>	<b>1469</b>	<b>EAST</b>	<b>RIO ARriba</b>

Bottom Hole Location if Different From Surface									
Oil or Gas Well	Section	Township	Range	Lat. Lon.	East from line	North/South line	East from line	East/West line	County
Dedicated Acres <b>61 ACRES</b>				Joint or Infill		Conservation Code		Order No. <b>NSL-6162</b>	

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION.

<p><b>SECTION 27</b></p> <p><b>SURFACE LOCATION</b>          LAT: 36.7857743° N          LONG: 106.805885° W          MAG: 83          LAT: 36.7857012° N          LONG: 106.8099834° W          MAG: 27</p> <p><b>LEGEND:</b>          O = SURFACE LOCATION          * = FOUND 1911 S.L.M. BRASS CAP (C.C.)          * = FOUND 1914 U.S.G. L.C. BRASS CAP (W.C.)</p> <p><b>NOTES:</b>          1. BEARINGS &amp; DISTANCES SHOWN ARE RECORD, BASED UPON TRUE NORTH AND SURFACE DISTANCES.          2. THIS PLAT REPRESENTS SECTION LINES PROJECTED INTO THE TIERRA AMARILLA GRANT FOR MAPPING PURPOSES.</p>	<p><b>7. OPERATOR CERTIFICATION</b></p> <p>I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this representation is not a working interest or a leasehold interest in the land, including the proposed bottom hole location or any right to drill the well at this location pursuant to a separate lease or agreement of such a nature as to constitute a separate drilling agreement or a nonstandard drilling unit, as required by the Division.</p> <p><i>Mike D. Smith</i> 7/24/12          Signature Date          Printed Name          Heritage Petroleum, a subsidiary of          E-mail Address</p> <p><b>8. SURVEYOR CERTIFICATION</b></p> <p>I hereby certify that the well location shown on this plat was plotted from field notes of actual survey made by me or under my supervision, and that the same comply with the rules of the Board of Survey.</p> <p>8/08/11          Date of Survey          Signature and Title          JAMES VUKOBICH          NEW MEXICO          PROFESSIONAL SURVEYOR          14831          Certificate Number          7-23-2012</p>
--	---

EXHIBIT C

## Exhibit M



**MONTGOMERY  
& ANDREWS**  
LAW FIRM

**J. Scott Hall**  
Office: (505) 982-3873  
Email: shall@montand.com  
Reply To: Santa Fe Office  
www.montand.com

August 21, 2012

Ms. Jami Bailey, Director  
New Mexico Oil Conservation Division  
1220 S. St. Francis Drive  
Santa Fe, NM 87505

**Hand Delivered**

Re: Heritage Petroleum, Inc.  
Request for Amendment to Administrative Order NSL-6462  
Unorthodox Well Location  
Mancos Pool (97881); Undesignated Greenhorn Pool (66675)

Theis Greenhorn Test Well No. 1  
API No. 30-039-31012  
1796' FNL and 1469' FEL (G) (Surface and bottom hole)  
Projected Section 27, T30N, R1E  
Rio Arriba County, New Mexico

Dear Ms. Bailey:

On behalf of Heritage Petroleum, Inc. ("Heritage"), please be advised that our July 24, 2012 Request for Amendment to Administrative Order NSL-6462 is withdrawn. The Division's September 12, 2011 approval of Order NSL-6462 is unaffected by the withdrawal.

Thank you for the Division's cooperation in this matter.

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**REPLY TO:**

325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
Telephone (505) 982-3873 • Fax (505) 982-4289  
  
Post Office Box 2307  
Santa Fe, New Mexico 87504-2307

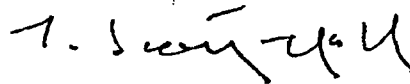
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6301 Indian School Road NE, Suite 400  
Albuquerque, New Mexico 87110  
Telephone (505) 884-4200 • Fax (505) 888-8929  
  
Post Office Box 36210  
Albuquerque, New Mexico 87176-6210

Ms. Jami Bailey, Director  
August 21, 2012  
Page 2

Very truly yours,

MONTGOMERY & ANDREWS, P. A.

A handwritten signature in black ink, appearing to read "J. Scott Hall".

J. Scott Hall  
Attorneys for Heritage Petroleum, Inc.

JSH:kw

cc: Dixon Sandoval, Jicarilla Apache Nation Oil and Gas Director – certified mail  
George Thetrault, P.E., Bureau of Indian Affairs – certified mail  
Jim Lovato, BLM – Farmington – certified mail  
Mike Smith, Heritage Petroleum  
Dick Dolecek, Discovery Exploration

400714

**CERTIFICATE OF SERVICE**

I certify that on this date, August 30, 2012, I caused a true and accurate copy of the foregoing to be served on the following parties and attorneys of record by depositing the same in the United States mail, postage prepaid, addressed as follows:

J. Scott Hall, Esq., and Seth McMillan, Esq.  
Montgomery & Andrews PA  
523 Paseo de Perlata  
Santa Fe, New Mexico 87051  
*Attorneys for Heritage Petroleum, Inc.*

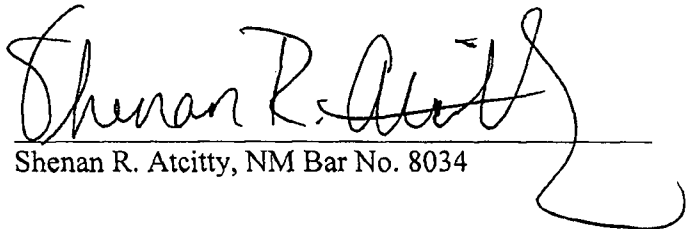
Superintendent Sherryl Vigil  
Jicarilla Agency  
Bureau of Indian Affairs  
P.O. Box 167  
Dulce, NM 87528

Donald Laverdure  
Acting Assistant Secretary  
Bureau of Indian Affairs  
MS-4141-MIB  
1849 C Street, N.W.  
Washington, D.C. 20240

Farmington Field Office  
Bureau of Land Management  
6251 College Blvd. Suite A  
Farmington, NM 87402

Jesse Juen, State Director  
Bureau of Land Management  
301 Dinosaur Trail  
Santa Fe, NM 87508

Ken Salazar, Secretary  
Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

  
Shenan R. Atcitty, NM Bar No. 8034