

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
2012 APR 17 PM 2 37
STEPHAN HARRIS, CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

ENCANA OIL & GAS (USA) INC.,
a Delaware corporation,

Plaintiff,

v.

JOHN ST. CLAIR,
an Individual and Chief Judge of the
Shoshone and Arapaho Tribal Court,

Defendant.

Case No. 12-CV-27-J

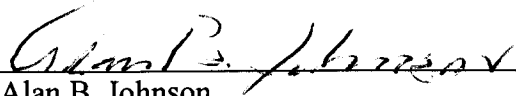
ORDER GRANTING DEFENDANT'S MOTION TO DISMISS WITHOUT PREJUDICE

THIS MATTER came before the Court by the *Motion of Defendant John St. Clair to Dismiss for Failure to Exhaust Tribal Remedies and Memorandum in Support* (Doc. 37). Plaintiff Encana Oil & Gas, Inc. ("Encana") timely responded. In between, this Court granted *Estate of Jeremy Jorgenson Motion to Intervene* (Doc. 34), admitting the Estate of Jeremy Jorgenson ("the Estate") to the case as Defendant-Intervenor. The Estate then filed *Motion of Intervenor Estate of Jeremy Jorgenson to Dismiss for Failure to Exhaust Tribal Court Remedies or in the Alternative to Stay Proceedings* (Doc. 63), to which Encana also responded.

This Court, having carefully considered the arguments, the pleadings of record and the applicable law, and being fully advised, finds that dismissal without prejudice is warranted in this case for the same reasons set out in this Court's *Order Denying Preliminary Injunction* (Doc. 70). As the Tenth Circuit has stated and this Court has reiterated, "[a] federal action may be abated or dismissed without prejudice to enable pursuit of tribal remedies," which is what we do here. *United States v. Chuska Dev. Corp.*, 55 F.3d 1491, 1492 (10th Cir. 1995) (citing *National Farmers Union Ins. Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 857 (1985)); accord *Marathon Oil Co. v. Johnston*, 2004 WL 4960751, *2 (D. Wyo. 2004).

Accordingly, it is hereby ORDERED that *Motion of Defendant John St. Clair to Dismiss for Failure to Exhaust Tribal Remedies and Memorandum in Support* (Doc. 37) shall be and the same is GRANTED.

Dated this 17th day of April, 2012.



Alan B. Johnson
United States District Judge