

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 12-5375**

**September Term, 2013**

FILED ON: MARCH 4, 2014

JICARILLA APACHE NATION,  
APPELLANT

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL.,  
APPELLEES

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Appeal from the United States District Court  
for the District of Columbia  
(No. 1:10-cv-02052)

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Before: HENDERSON and GRIFFITH, *Circuit Judges*, and SENTELLE, *Senior Circuit Judge*

**J U D G M E N T**

This appeal was considered on the record and on the briefs and oral argument of the parties. This court has determined, after according full consideration to the issues presented, that no published opinion is necessary. *See* D.C. CIR. RULE 36(d). It is

**ORDERED** and **ADJUDGED** that the district court's judgment be affirmed for substantially the reasons stated in its September 26, 2012 Memorandum Opinion and Order.

We agree with the district court's analysis in its entirety and find unpersuasive appellant's contention that a few legal authorities (*e.g.*, some legislative history and a proposed regulation) not addressed by the district court undermine its conclusions. We agree with the district court that 30 C.F.R. Part 241 leaves unclear whether 30 C.F.R. Part 290 affords the sole avenue for challenging a determination that additional royalties are owed.<sup>1</sup> In light of this ambiguity, the Department of the Interior's construction is permissible because it is not "plainly erroneous or inconsistent with th[ose] regulation[s]" or otherwise arbitrary and capricious. *St. Luke's Hosp. v. Sebelius*, 611 F.3d 900, 904 (D.C. Cir. 2010) (internal quotation marks omitted).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any

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<sup>1</sup> These provisions have been recodified and now appear at 30 C.F.R. Parts 1241 and 1290.

timely petition for rehearing or rehearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. RULE 41(a)(1).

*Per Curiam*

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Jennifer M. Clark  
Deputy Clerk