

COUNSEL EMERITUS
William R. Federici

J.O. Seth (1883-1963)
A.K. Montgomery (1903-1987)
Frank Andrews (1914-1981)
Seth D. Montgomery (1937-1998)

| | |
|---------------------|--------------------------|
| Victor R. Ortega | Paul E. Houston |
| Gary Kilpatrick | Kevin M. Sexton |
| Thomas W. Olson | Jeffery L. Martin |
| Walter J. Melendres | Alexandra Corwin Aguilar |
| John B. Draper | Jeffrey J. Wechsler |
| Nancy M. King | Shannon A. Parden |
| Sarah M. Singleton | Brian T. Judson |
| Stephen S. Hamilton | Susan R. Johnson |
| Edmund H. Kendrick | Holly Agajanian |
| Louis W. Rose | Sharon T. Shaheen |
| Randy S. Bartell | Jaime R. Kennedy |

OF COUNSEL
Joe A. Sturges
J. Scott Hall
Suzanne C. Odom
Earl Potter, P.A.

MONTGOMERY & ANDREWS

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

325 Paseo de Peralta
Santa Fe, New Mexico 87501

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

Telephone (505) 982-3873
Fax (505) 982-4289

2008 MAY 14 PM 2
RECEIVED
ALBUQUERQUE OFFICE

6301 Indian School Road, N.E.
Suite 400
Albuquerque, New Mexico 87110

Post Office Box 36210
Albuquerque, New Mexico 87176-6210

Telephone (505) 884-4200
Fax (505) 888-8929

www.montand.com

Reply to Santa Fe Office

May 14, 2008

Hand-Delivered

Ms. Florene Davidson
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

Re: *NMOCD Case No. 14134: Application of the Board of County
Commissioners of Rio Arriba County for Cancellation or Suspension of
Applications for Permits to Drill (APD's) Filed by Approach Operating,
LLC.*

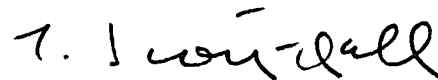
Dear Ms. Davidson:

Enclosed for filing are the original and two copies of Approach Operating LLC's,
Response to Motion to Vacate and Reschedule Hearing in the above-referenced matter.

Thank you.

Very truly yours,

Montgomery & Andrews, P. A.



J. Scott Hall

JSH/dk

Enclosures: As stated

STATE OF NEW MEXICO RECEIVED
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION MAY 14 PM 2 06

**IN THE MATTER OF THE APPLICATION OF THE BOARD
OF COUNTY COMMISSIONERS OF RIO ARriba COUNTY
FOR CANCELLATION OR SUSPENSION OF APPLICATIONS
FOR PERMITS TO DRILL (APD'S) FILED BY APPROACH
OPERATING, LLC, RIO ARriba COUNTY, NEW MEXICO**

CASE NO. 14134

**RESPONSE TO
MOTION TO VACATE AND RESCHEDULE HEARING**

APPROACH OPERATING LLC, ("Approach"), through its undersigned attorneys, Montgomery and Andrews, P.A., (J. Scott Hall) responds to the Motion to Vacate and Reschedule Hearing filed on behalf of the Applicant.

On information and belief, on approximately April 28, 2008, Applicant requested the Division's review of APD's for four of Approach's wells. Although it is clearly an "affected person" within the Division's rules, Approach has yet to be provided with Applicant's Application. Neither has Approach been provided with notice.^[1]

Approach Oil and Gas Inc. owns the oil and gas lease upon which the four wells will be drilled by Approach Operating, LLC. The lease represents a substantial investment in terms of both capital and effort. The lease embraces 90,357 acres, \pm . As the Applicant knows, under the terms of the lease, eight wells must be drilled before the end of the primary term on April 2, 2009, or the lease is subject to automatic termination. The drillsites are not accessible year-round. Consequently, Approach has only a limited opportunity this summer to fulfill its drilling commitment.

Approach opposes any delays which will frustrate its ability to exercise and preserve its property rights. If it is prevented from drilling and its lease becomes lost, Approach will incur significant consequential damages.

Under these extraordinary circumstances, a scheduling conflict is an insufficient justification for a delay. Having invoked the administrative processes of the Division in the first place, the Applicant should be prepared to present its case on schedule as it originally requested. Applicant is represented by no fewer than three attorneys, any one of whom is capable of presenting the Applicant's case on schedule.

Applicant's motion should be denied. Alternatively, the Applicant's case should be set for special examiner hearing so that undue delays can be avoided.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By: 

J. Scott Hall

Attorneys for Approach Operating LLC

P. O. Box 2307

Santa Fe, New Mexico 87504-2307

(505) 982-3873

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 14th day of May, 2008 as follows:

Ted J. Trujillo, Esq.
P. O. Box 2185
Espanola, NM 87532-2185
(505) 753-4750 [facsimile]

Carol Leach, Esq.
New Mexico Energy, Minerals and Natural
Resources Dept.
1220 South St. Francis Drive
Santa Fe, NM 87505
(505) 476-3210



J. Scott Hall

☐ While Approach waives no rights with respect to notice, it is willing to work with the Applicant and the Division to resolve this matter in a timely manner