

RECEIVED OCD
2009 SEP 4 P 3:11
STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

**In the Matter of the Application of Approach
Operating, LLC for Approval of Fourteen
Applications for Permits to Drill, Rio Arriba
County, New Mexico**

Case 14278

**NOTICE OF INTERVENTION AND
REQUEST TO BE HEARD AT THE SEPTEMBER 9 HEARING**

Pursuant to NMAC 19.15.4.11(A), the Rice Family Living Trust ("the Trust") hereby provides its Notice of Intervention in the above captioned proceeding, and respectfully requests that it be afforded an opportunity to be heard at the September 9, 2009 hearing in this matter.

The Trust will be represented in this proceeding by:

Steven Sugarman
1210 Luisa Street, Suite 2
Santa Fe, NM 87505
phone: (505)672-5082
e-mail: stevensugarman@hotmail.com
fax: (302) 689-0819

The Trust has an interest in this proceeding, as it is the surface owner of the land where two of the proposed wells which are the subject of this proceeding are located. Specifically, the Trust owns the surface where the following two wells are proposed:

Rice Well No. 1
T28N R5E NMPM
Lat. 36°38'23.46" N (36.63985 N)
Long. 106°27'4.32" W (-106.45120 W)

Rice Well No. 2
T28N R5E NMPM
Lat. 36°38'8.3394" N (36.635650 N)
Long. 106°26'57.5406" W (-106.4493166 W)

To the extent that the Trust's Notice of Intervention is untimely, the Trust respectfully requests that the Commission exercise its discretion under NMAC 19.15.4.11(B) to allow late intervention. As grounds for this intervention, the undersigned states as follows:

- (1) In a telephone conversation of August 25, the undersigned asked Mr. J. Scott Hall, attorney for the Applicant, if he intended to proceed with the hearing on the application that is now calendared before the Commission for the September 9 hearing. Mr. Hall specifically informed the undersigned that he intended to seek a postponement of the September 9 hearing, and would not take further action with respect to the subject applications until such time as the Applicant has concluded the Rio Arriba County permitting process.
- (2) In a letter of August 28 to the undersigned, Mr. Hall again specifically indicated that "we don't plan on proceeding with the adjudicatory hearing on the state application on September 9." (See Exhibit 1 attached.) Mr. Hall also indicated in his letter of August 28 that he would keep the undersigned informed as to permitting activity in connection with proposed wells on land owned by the Trust.
- (3) Based on Mr. Hall's representations that the September 9 hearing on the applications would be continued until after County permitting proceedings on the subject applications are concluded, the undersigned did not understand that there was an exigency with respect to the filing of a Notice of Intervention in this

matter.

- (4) Notwithstanding Mr. Hall's express representations to the contrary, Mr. Hall filed a motion with the Commission on August 31 seeking, inter alia, administrative approval of the applications and dismissal without prejudice of this proceeding. Furthermore, Mr. Hall seeks to have his motion heard by the Commission at the September 9 hearing. This unanticipated event requires the filing of this Notice of Intervention.
- (5) Despite Mr. Hall's representation that he would keep the undersigned informed as to permitting activity in connection with Rice Well No. 1 and Rice Well No. 2, Mr. Hall failed to provide the undersigned with notice as to the currently pending motion for administrative approval and dismissal without prejudice. The undersigned only learned of the Applicant's August 31 motion today, September 4, 2009.
- (6) The Trust desires to be heard at the September 9 hearing in order to state its opposition to the Applicant's motion, and specifically to the Commission's approval of the applications for Rice Well No. 1 and Rice Well No. 2.

Wherefore, the Trust respectfully provides its Notice of Intervention in this matter, states its opposition to the Applicant's motion generally and to approval of the applications for Rice Well No. 1 and Rice Well No. 2 specifically, and requests an opportunity to be heard at the September 9 hearing.

Respectfully submitted,

/s/ Steven Sugarman
Steven Sugarman
1210 Luisa Street, Suite 2
Santa Fe, NM 87505
(505) 672-5082

I hereby certify that a true and correct copy of the foregoing was sent by telefax and e-mail to Ms. Cheryl Bada (attorney for the Commission) at cbada@state.nm.us and (505) 476-3220, by telefax and e-mail to Mr. J. Scott Hall (attorney for the Applicant) at shall@montand.com and (505) 982-4289, and by telefax and e-mail to Mr. Adan Trujillo (attorney for Rio Arriba County) at adantrujillo@gmail.com and (505) 753-4750 on this 4th day of September, 2009.

/s/ Steven Sugarman
Steven Sugarman



**MONTGOMERY
& ANDREWS**

J. SCOTT HALL

Cell: (505) 670-7362

Email: shall@montand.com

Reply To: Santa Fe Office

www.montand.com

August 28, 2007

Steven Sugarman, Esq.
1210 Luisa Street, Suite 2
Santa Fe, NM 87505

**Via E-Mail and
Regular Mail**

Re: Rice Family Living Trust

Dear Steve:

This responds to your August 20, 2009 letter. You already have my other letters proposing several dates to schedule an onsite meeting at the proposed location for the Rice No. 1 well. Please respond.

First, you have requested that all further communications from Approach be routed through you. This request will be honored and it is understood that you agree to accept all communications, including any notices required under the New Mexico Surface Owners Protection Act. In this regard, it is noted that you do not maintain regular office hours and appear to have no staff. We have experienced difficulties in making hand-deliveries to your office and are not confident of your availability to accept certified delivery by mail. Accordingly, copies of all our correspondence will also be sent to the e-mail address reflected on your letterhead: STEVEN SUGARMAN@HOTMAIL.COM. Let me know if you do not agree with this procedure. In any event, we regard your August 18, 2009 response to my client's August 14, 2009 letter to Mr. Rice as acknowledgement of receipt of the certified mail notice required by NMSA Section 70-12-5A.

Approach has made considerable effort to meet and indeed exceed its obligations to accommodate the surface owner's interests and concerns and to comply with applicable state and local rules. It will continue to do so, but there must be reciprocity. The facts are that, on behalf of your client, you have rejected Approach's proposed Surface Use and Compensation Agreement. No counter-proposal has been made. Approach has also proposed alternate locations for the Rice No. 1 well, but your client has failed to indicate a preference. Further, our efforts to schedule on-site meetings with your client have been unsuccessful.

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

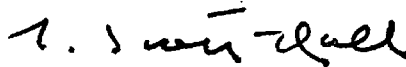
Steven Sugarman, Esq.
August 28, 2009
Page 2

On behalf of your client, you have requested that negotiations for a surface use agreement be deferred pending the issuance of permits. We will honor your request. However, deferring negotiations shall not impair the rights of my client under its oil and gas lease, under the Surface Owners Protection Act, or otherwise. This shall be consistent with the acknowledgment in your August 18, 2009 letter that your client will provide reasonable accommodation to Approach.

With regard to regulatory permitting, Approach's application for permit to drill the Rice No. 1 has been on file with the Oil Conservation Division for some time. Copies of the most recent APD and satellite photo are enclosed. (Please note: One of the alternate locations which was identified as the Rice No. 2 well will be designated as the Rice No. 1.) As we discussed, we don't plan on proceeding with the adjudicatory hearing on the state application on September 9th. I am looking for a way to avoid duplicative proceedings. Approach has been proactive with Rio Arriba County and has initiated the processes preparatory to making application for a special use permit pursuant to the County's oil and gas ordinance, Ordinance No. 2009-01. We will plan on keeping you informed of the application and permitting activity on your client's surface.

One final comment: A substantial portion of your letter is dominated by inflammatory assertions regarding earlier communications with Mr. Morgan. I have investigated your claims and conclude they are unfounded. Respectfully, I find that debates of this nature are counterproductive and do not plan to be diverted by indulging this one any further. Rather, it is hoped we may work together in a collaborative manner and devote our efforts to forging a mutually agreeable resolution for our clients.

Very truly yours,



J. Scott Hall

JSH:kw
Enclosures
cc: Brice Morgan
00125449

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

¹ Operator Name and Address Approach Operating, LLC 6500 West Freeway, Suite 800 Fort Worth, TX 76116		² OGRID Number 248343
		³ API Number 30 -
⁴ Property Code	⁵ Property Name Rice	⁶ Well No. 2
⁷ Proposed Pool 1 WC; Mancos		⁸ Proposed Pool 2

7 Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
C	30	28N	05E		1155	NORTH	1673	WEST	RIO ARRIBA

8 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

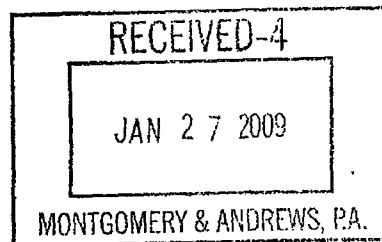
¹¹ Work Type Code N	¹² Well Type Code O	¹³ Cable/Rotary ROTARY	¹⁴ Lease Type Code P	¹⁵ Ground Level Elevation 8306.79'
¹⁶ Multiple	¹⁷ Proposed Depth 2000'	¹⁸ Formation GRANEROS	¹⁹ Contractor Chihuahua Drilling	²⁰ Spud Date Upon Approval

21 Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/foot	Setting Depth	Sacks of Cement	Estimated TOC
12 1/2"	9 5/8"	36.0 #	350'	210	Surface
8 3/4"	4 1/2"	10.5 #	2000'	500	Surface

²² 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.

- (1) Shafco 11" Double Ram 3000# LWS
- (1) Grant 11" rotating head, 3000#
- (1) 5000# choke manifold
- (1) Koomey 3 station 3000# w/air hydraulic pump
- (4) 10 gallon bottles



²³ I hereby certify that the information given above is true and complete to the best of my knowledge and belief.

Signature:

Printed name: Glenn W. Reed, P.E.

Title: Executive Vice President - Engineering and Operations

E-mail Address: gwreed@approachresources.com

Date:

Phone: 817-989-9000

OIL CONSERVATION DIVISION

Approved by:

Title:

Approval Date:

Expiration Date:

Conditions of Approval Attached ☐

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

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

Form C-102
Revised October 12, 2005
Submit to Appropriate District Office
State Lease - 4 Copies
Fee Lease - 3 Copies

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

¹ API Number		² Pool Code		³ Pool Name WC28N5E30; Mancos Oil	
⁴ Property Code		⁵ Property Name Rice Property			⁶ Well Number Rice #2
⁷ OGRID No. 248343		⁸ Operator Name Approach Operating LLC			⁹ Elevation 8306.79

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
C	**30	**28N	**05E		1155	NORTH	1673	WEST	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

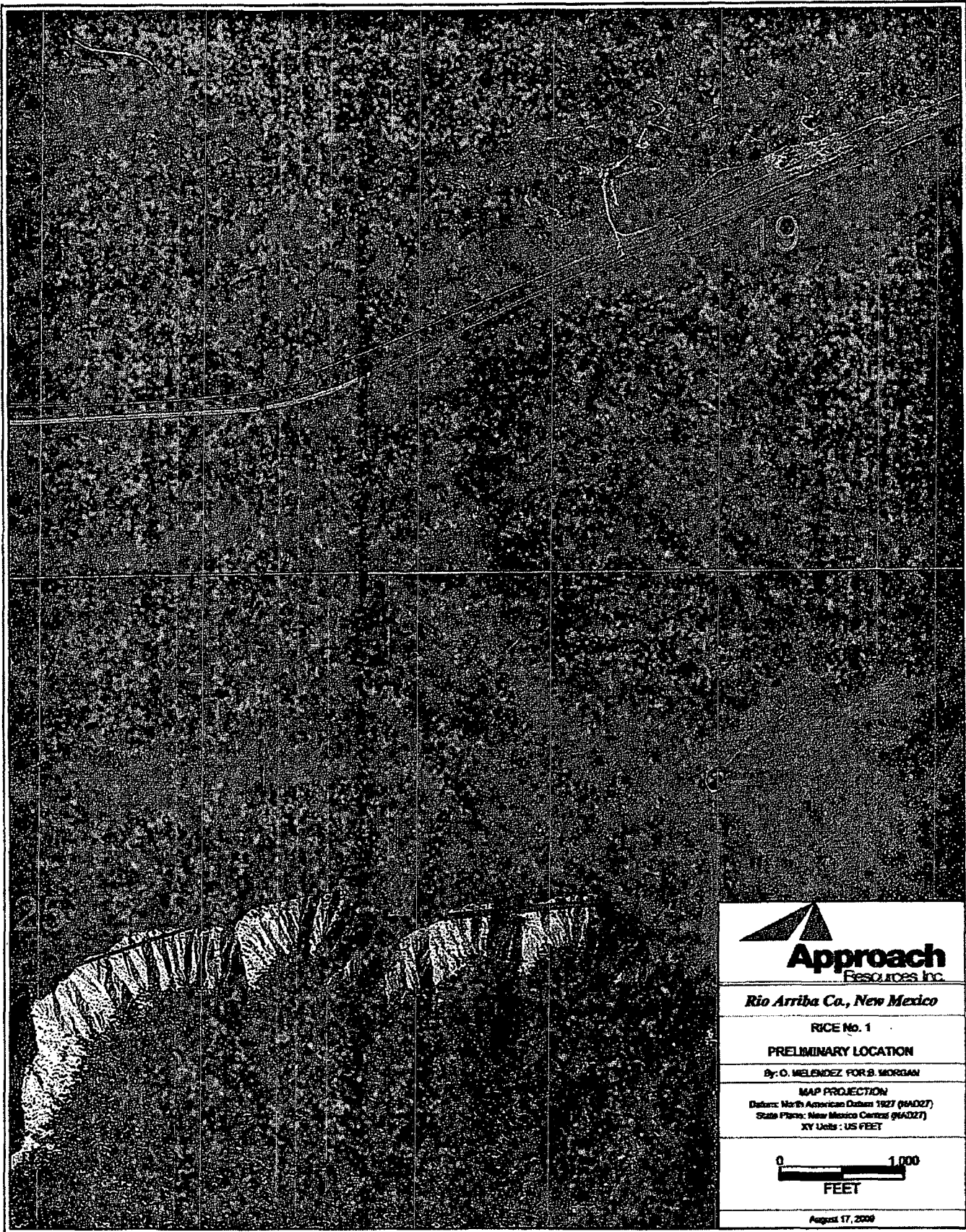
¹² Dedicated Acres	¹³ Joint or Infill	¹⁴ Consolidation Code	¹⁵ Order No.

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.

**** Projection within the Tierra Amarilla Land Grant**

¹⁶ 	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 released 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: <u>Glenn W. Reed</u> Date: <u>1/27/09</u> Printed Name: <u>Glenn W. Reed</u>	
	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. <u>Gilberto Archuleta</u> Date: <u>1/27/09</u> 	
	Certificate Number	

Latitude - 36.635650 North
Longitude - -106.449316 West



Rio Arriba Co., New Mexico

RICE No. 1

PRELIMINARY LOCATION

By: O. MELENDEZ FOR S. MORGAN

MAP PROJECTION

Datum: North American Datum 1927 (NAD27)

State Plane: New Mexico Central (64027)

XY Units : US FEET



August 17, 2009