

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

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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

IN THE MATTER OF THE APPLICATION OF APPROACH
OPERATING, LLC FOR APPROVAL OF SIX APPLICATIONS FOR
PERMITS TO DRILL, RIO ARRIBA COUNTY, NEW MEXICO

CASE NO. 14141

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 NO. 14278

**INTERVENOR RICE FAMILY LIVING TRUST'S OPPOSITION TO APPLICANT'S
MOTION FOR CONDITIONAL APPROVAL OF APPLICATIONS FOR PERMIT TO
DRILL AND FOR DISMISSAL¹**

Currently pending before the Oil Conservation Commission ("OCC") is Applicant

¹ In a filing of September 8, 2009 in Case No. 14278, the Trust stated its opposition to the Applicant's motion for conditional approval. Since that time, the Trust has filed its Notice of Intervention in Case No. 14134 and Case No. 14141. For the convenience of the Commission, the Trust is hereby filing a consolidated opposition brief to the Applicant's motion which has been filed as to all three of the pending cases.

Approach Operating, LLC's Motion for Conditional Approval of Applications for Permit to Drill and for Dismissal. In its motion, the Applicant seeks dismissal of these three consolidated cases and approval of the APDs that are the subject of this case "in the ordinary course of the Division's established administrative approval process."

Intervenor Rice Family Living Trust ("the Trust") opposes this motion, and in support of its opposition incorporates the arguments made by the Board of County Commissioners of Rio Arriba County in their September 2, 2009 response to the Applicant's motion.² In further support of its opposition to the Applicant's motion, the Trust states as follows:

(1) Through counsel, the Trust has sought information from the Applicant regarding the potential environmental impacts of its drilling proposal, including specifically impacts to water resources in the Chama watershed.

(2) Through counsel, and also in connection with the concurrent County permitting process, the Trust has also sought production and disclosure of all environmental analyses which the Applicant has prepared for use in this adjudication and in the County permitting process.

(3) The Applicant has not produced any of this information to the Trust, other than (1) a GoogleEarth image showing the location of the proposed well sites, (2) two "typical" schematic drawings: a "drawing of the proposed closed loop system drilling location" and a "drawing of a typical typical producing location," and (3) a setback "checklist."

(4) The Applicant has indicated that environmental analyses have not been produced to the

² The Trust understands that the County and the Applicant may soon enter into an agreement whereby the County Commissioners would withdraw their objections to the Applicant's motion for conditional approval and dismissal. Of course, any such agreement does not bind the Trust in this matter for so long as the Trust continues to oppose Applicant's motion.

Trust because they have not yet been performed.

(5) Without the production and disclosure of information as to the potential impacts of the Applicant's proposal on human health and the environment, the Trust cannot meaningfully and effectively participate in this adjudication and the Commission cannot meaningfully evaluate the potential environmental risks posed by the Applicant's drilling proposal.

(6) More importantly, without any evidence whatsoever as to the possible impacts of Applicant's proposal on human health and the environment – both on an individual-well basis and on a landscape scale – it would be inappropriate for the OCC to approve the pending applications, or to direct approval of the pending applications.

(7) In a press release of July 21, 2008, Governor Richardson stated: "It is important that we identify and thoroughly scrutinize proposed drilling in highly sensitive areas like portions of the Chama Watershed." In light of the Governor's recognition of the "highly sensitive" environment that is put at risk by the Applicant's proposal, and in light of the fact that the Oil Conservation Division has not yet formulated the protective regulations requested by the Governor, it would be inappropriate to approve the APDs that are the subject of these proceedings "in the ordinary course of the Division's established administrative approval process."

Wherefore, for the reasons set forth above, the Trust respectfully submits that the Applicant's motion for conditional approval and dismissal should be denied.

Respectfully submitted,

/s/ Steven Sugarman

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

Attorney for Proposed-Intervenor Rice Family
Living Trust

I hereby certify that a true and correct copy of the foregoing was sent by e-mail to Ms. Cheryl Bada (attorney for the Commission) at cbada@state.nm.us, by e-mail to Mr. J. Scott Hall (attorney for the Applicant) at shall@montand.com and, by e-mail to Mr. Adan Trujillo (attorney for Rio Arriba County) at adantrujillo@gmail.com on this 5th day of October, 2009.

/s/ Steven Sugarman

Steven Sugarman

STATE OF NEW MEXICO
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OIL CONSERVATION COMMISSION

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**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

**IN THE MATTER OF THE APPLICATION OF APPROACH
OPERATING, LLC FOR APPROVAL OF SIX APPLICATIONS FOR
PERMITS TO DRILL, RIO ARRIBA COUNTY, NEW MEXICO**

CASE NO. 14141

NOTICE OF APPEARANCE

Pursuant to NMAC 19.15.4.10(B), Steven Sugarman hereby enters his formal appearance in these cases on behalf of the Rice Family Living Trust ("Trust"). The undersigned counsel is filing a Notice of Intervention in these cases concurrently with this Notice of Appearance.

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 e-mail to Ms. Cheryl Bada (attorney for the Commission) at cbada@state.nm.us, by e-mail to Mr. J. Scott Hall (attorney for the Applicant) at shall@montand.com, and by e-mail to Mr. Adan Trujillo (attorney for Rio Arriba County) at adantrujillo@gmail.com on this 30th day of September, 2009.

/s/ Steven Sugarman
Steven Sugarman