

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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
ORDER NO. R-12976-B

ORDER REMANDING TO THE DIVISION

This matter came on for hearing before the Oil Conservation Commission on October 7, 2009 pursuant to the Motion To Remand to the Division filed by Approach Operating LLC, ("Approach"), through its undersigned attorneys, Montgomery and Andrews, P.A., (J. Scott Hall) with the concurrence of the Board of County Commissioners of Rio Arriba County, through their attorney, Adan E. Trujillo. Proposed Intervenor, Dwight E. Rice and Karen Rice, Trustees, Rice Family Living Trust, appeared through their counsel, Steven Sugarman, Esq. The Commission being duly advised finds the motion is well taken and ORDERS as follows:

1. The Applications for Permits to Drill ("APD's") that are the subject of Case No. 14134, Case No. 14141 and Case No. 14278 that have not otherwise been withdrawn by Approach are remanded to the Division for disposition in accordance with regular administrative technical review procedure by the Division's District III office for the following proposed wells:

- *Sena Well No. 2
- *Avella Sultemeier No. 2
- *Montano Well No. 1
- *Dora Spill Well No. 2
- *Dora Spill Well No. 3
- *Jeffrey Spill Well No. 1
- *Jeffrey Spill Well No. 3
- *Edward Spill Well No. 4

2. Pursuant to 19.15.14.10 B NMAC of the Division's rules and regulations, if approved by the Division's District Office, the APD's for each of the above-referenced wells, and for all other APD's submitted by Approach for wells it proposes to drill on its current leasehold in Rio Arriba County shall reflect the following condition: "*Applicant shall comply with all applicable county ordinances.*"

3. None of the APD's for the wells referenced in paragraph 1, above, are located on or are in close proximity to the lands owned by Dwight E. Rice and Karen Rice, Trustees, Rice Family Living Trust. However, through counsel, Approach Operating, LLC will provide notice to the Rices of (a) the submission to the Division's District III office of the APD's for the wells referenced in paragraph 1, above, and (b) the District III's approval or denial of the APD's. Within 30 days from the date of the action by the District III Office, the Rices may seek an adjudicatory hearing to review any such approval by filing an application pursuant to Rule 19.15.4.8 NMAC. Consequently, until such applications are resolved, the following pleadings of the parties are rendered moot:

- 9/8/09 Proposed-Intervenor Rice Family Living Trust's Motion for an Order Requiring the Production of Information Related to the Pending Applications
- 9/30/09 Proposed-Intervenor Rice Family Living Trust's Notice of Intervention
- 9/30/09 Proposed-Intervenor Rice Family Living Trust's Amended Notice of Intervention
- 10/5/09 Proposed Intervenor Rice Family Living Trust's Opposition to Applicant's Motion for Conditional Approval of Applications for Permit to Drill and for Dismissal
- 10/5/09 Proposed Intervenor Rice Family Living Trust's Suggestion of Jurisdictional Impediment
- 10/6/09 Approach Operating LLC's Motion to Strike
- 10/6/09 Approach Operating LLC's Response to Proposed Intervenor's Motion for an Order Requiring Production of Information Relating to the Pending Applications

The parties reserve all rights and remedies accruing to them under the Division's rules and regulations and the Oil and Gas Act, NMSA Section 70-2-1, et seq.

4. The APD's for the following wells are withdrawn and are accordingly dismissed from these cases:

Case No. 14143:

- *Sultemeier Well No. 1
- *Sena Well No. 1
- *Woolley Family LP Well No. 1

Case No. 14141:

- *Benjamin Trujillo Well No. 1
- *Rosemary Roller Well No. 1
- *Leo Valdez Well No. 1
- *Cloyd Hinkle No. 1
- *Anthony Garcia No. 1

Case No. 14278:

- *Rice Well No. 1
- *Rice Well No. 2
- *Montano Well No. 2
- *Dora Spill No. 1
- *Jeffrey Spill Well No. 2
- *Edward Spill No. 1
- *Edward Spill Well No. 2
- *Edward Spill Well No. 3

5. The Applications for adjudicatory hearing in Case No. 14134, Case No.14141 and Case No. 14278 are dismissed.

6. Order No. R-12976 is hereby vacated.

DONE at Santa Fe, New Mexico, on this day of October, 2009.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, P.E.
Director

Submitted by:

MONTGOMERY & ANDREWS, P.A.

By: _____

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