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FAX TRANSMITTAL MEMORANDUM

TO: Division Clerk @ 505-476-3462 (F)
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505

DATE: June 13, 2008

[FILED BY FAX on June 13, 2008/Two Original and One Copy mailed via USPS same Date]

RE: **CASE 14134, 14141: IN THE MATTER OF THE APPLICATION OF THE
BOARD OF COUNTY COMMISSIONERS OF RIO ARriba COUNTY FOR
CANCELLATION OR SUSPENSION OF APPLICATIONS FOR PERMIT TO
DRILL (APD'S) FILED BY APPROACH OPERATING, LLC, RIO ARriba
COUNTY, NEW MEXICO**

ENCLOSED ARE THE FOLLOWING DOCUMENTS:

- 1) MOTION FOR CONTINUANCE
(2 Originals & 1 Copy)

PLEASE:

☒ File

☒ self-addressed, stamped
envelope enclosed

☐ Record

☐ Please bill me for proper
remittance

☐ Approve, sign
call for return

☐ Per your request

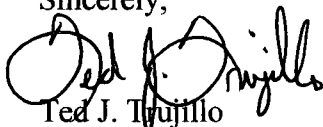
☒ Return endorsed,
recorded copy

☐ For your information

☐ Check for \$____
enclosed for proper fee

☐ Other:

Sincerely,


Ted J. Trujillo

Enclosure

TJT

P.O. Box 2185 Española, NM 87532

AET

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

**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, 14141

MOTION FOR CONTINUANCE

COMES NOW, the Board of County Commissioners of Rio Arriba County, ("County"), by and through the undersigned attorneys, and for its motion for continuance of the above-referenced matters, now scheduled for June 20, 2008, states as follows:

1. The County requested a hearing to show that the drilling of the wells by Approach Operating, LLC in the applications referenced in the above-styled case numbers would cause waste, violate correlative rights and/or be injurious to human health and the environment.

2. Since the filing of this protest, Approach Operating LLC has filed a lawsuit against the County in the United States District Court for the District of New Mexico. See Approach Oil & Gas, Inc. et al.v. Board of County Commissioners of Rio Arriba County, et al., No. CIV 08-464 KBM/WDS.

3. Research done by the County in response to the federal suit indicates that a legal issue exists as to Approach Operating LLC's ownership of the mineral estate in certain, if not all, of the ten (10) applications submitted by Approach.

4. The County has filed an Answer to the federal suit and has denied that Approach Operating, LLC is the owner of the mineral estate to the extent alleged in its

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Complaint. The County answered plaintiff Approach's claim of ownership of the mineral estate at paragraph 11 of its Complaint, as follows:

Defendants are without sufficient information to admit or deny the allegations in paragraph 11, and therefore deny the same and demand strict proof thereof, including, but not limited to Plaintiffs' claim that they own an enforceable leasehold property right in and to the mineral estate of 90,357 acres within the Tierra Amarilla Grant. Defendants, upon information and belief, and subject to discovery herein, affirmatively state that Plaintiffs do not, to the extent alleged, own an enforceable leasehold property right in and to the mineral estate of 90,357 acres within the Tierra Amarilla Grant.

5. Ownership of the mineral estate by Approach is a threshold requirement to a valid Application for Permit to Drill, and that issue should be heard and resolved prior to the County's challenge of the applications on the statutory grounds.

6. As a result of agreed-to extensions in the federal suit, the County has a deadline of July 1, 2008 for the filing of a Response to Approach's Motion for Preliminary Injunction.

7. The issue of the ownership of the mineral rights in the pending applications before OCD will be briefed in the afore-mentioned Response to the federal district court.

8. Based on the issue of ownership of the mineral estate, the County seeks to file a dispositive motion before the OCD which would seek to dismiss the present and pending applications by Approach.

9. An extension of time from the OCD to run concurrently with the due date of July 1, 2008 in the federal suit to fully develop the issue as to the ownership of the mineral estate is therefore appropriate.

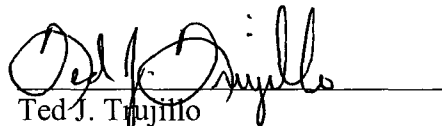
10. Approach Operating, LLC will not be prejudiced by a continuance of this matter by OCD because the on-going federal lawsuit will not be resolved within this same time period. Approach has invoked the *force majeure* clause of its lease in a letter to the lessors of the alleged mineral right estate which tolls the performance of any valid mineral rights it may have under its leasehold. See Letter dated May 2, 2008 from Approach Operating LLC. to Lessors, attached as Exhibit A.

11. Opposing Counsel for Approach Operating LLC has been contacted on this Motion and was not available to respond to this Motion.

Wherefore, County requests a continuance of the above-referenced matter to the following dates: on or by July 1, 2008 the County will file its Motion to Dismiss or other dispositive motion; on or by July 16 Approach will file its Answer to the Motion to Dismiss or other dispositive motion; on or by July 26, the County will file its reply, and a hearing on the motion before OCD may be scheduled for its next regularly scheduled docket after July 26.

Respectfully submitted,

LAW OFFICES OF TED J. TRUJILLO

A handwritten signature in black ink, appearing to read "Ted J. Trujillo", is written over a horizontal line.

Ted J. Trujillo
Adan E. Trujillo
P.O. Box 2185
Espanola, NM 87532
(505) 982-3873

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was mailed to counsel of record on the 13th day of June, 2008 to J. Scott Hall, Montgomery & Andrews, P.A., P.O. Box 2307, Santa Fe, New Mexico 87504-2307.


Ted J. Trujillo



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May 2, 2008

Via Email mpopejoy@trholdings.com

Via Federal Express

Robert B. Rowling
William C. Dunlap
Thomas Hassen
Minerva Partners, Ltd.
Recklaw Ventures, Ltd.
Michael T. Popejoy

c/o Michael T. Popejoy
600 East Las Colinas Boulevard
Suite 1900
Irving, Texas 75039-5601

Re: Oil & Gas Lease dated February 27, 2007 between the parties named therein, as Lessor, and Approach Oil & Gas Inc., as Lessee, as successor in interest to Lynx Production Company, Inc. (the "Lease")

Gentlemen:

Approach Oil & Gas Inc. ("Approach") is the assignee of the Lease pursuant to an Assignment of Oil and Gas Lease dated as of March 7, 2007.

As you know, on April 24, 2008, the Board of County Commissioners (the "Board") of Rio Arriba County (the "County"), New Mexico, adopted Ordinance No. 2008-03 ("Ordinance 2008-03"), a copy of which is enclosed herewith. The Ordinance prohibits the processing, granting, approval and issuance by the County of any applications for change in use, use permits or change in use permits for or relating to new Oil and Gas Development (as defined in the Ordinance) for 120 calendar days after the recordation of Ordinance 2008-03 with the County Clerk. Under its terms, Ordinance 2008-03 may be extended by the Board.

In addition to Ordinance 2008-03, on April 25, 2008, Approach received a letter (the "P&Z Letter") dated April 22, 2008 from Gabriel T. Boyle, Assistant Planning and Zoning Director, Rio Arriba County Planning and Zoning Department (the "P&Z Department"). A copy of the P&Z Letter is enclosed herewith. In the P&Z Letter, the P&Z Department informed Approach that the County must approve any operations by Approach under the Lease. According to the P&Z Department, such approval will require an application for a change of use permit filed with the P&Z Department. The processing and approval of such an application would take place according to the procedure set forth in Ordinance 2000-01 ("Ordinance 2000-

Exhibit A

May 2, 2008
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01"), a copy of which is enclosed herewith. The P&Z Department also informed Approach that (i) the application process for operation of the Lease, including public hearings, could take 120 days after submission of an application, and (ii) no such applications would be processed or approved until the moratorium on new Oil and Gas Development in Ordinance 2008-03 had expired. The P&Z Department also informed Approach that Approach may not proceed with operations under the Lease until the application process discussed above had been completed and approval of Approach's operations had been granted by the Board.

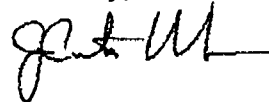
Ordinance 2008-03, the P&Z Letter and Ordinance 2001-1 affect all lands covered by the Lease.

The actions by the Board and P&Z Department are expected to delay the performance by Approach of Approach's obligations under the Lease. If Ordinance 2008-03 was immediately recorded, the earliest date at which it could be lifted is approximately August 22, 2008. If Approach submits its application to the County immediately thereafter, it is unlikely that the County would approve the application, if at all, prior to approximately December 20, 2008. Assuming approval is granted in December 2008, the Lease lands will be snowbound and Approach will be unable to commence drilling until after snow melt in April or May 2009. The governmental actions, regulatory orders and ordinances discussed above, therefore, are expected to result in Approach being unable to fulfill, among others, the obligations set forth in Section 16 of Addendum A to the Lease regarding the drilling of eight wells before the expiration of the primary term of the Lease.

Pursuant to Section 9 of the Lease and Section 12 of Addendum A to the Lease, this letter is intended to serve as notice of the existence of the delays described herein. The causes of such delay are the governmental actions, regulatory orders and ordinances discussed above. In addition, any litigation arising out of such actions, orders and ordinances also could cause a delay in the performance by Approach of its obligations under the Lease.

Nothing herein should be construed by any party as Approach's agreement with or consent to the actions previously taken or to be taken by the Board, the County or the P&Z Department, or other governmental authority or with respect to the validity or legality of such actions. Approach reserves all rights with respect to the County, the P&Z Department and other governmental authorities in this matter.

Sincerely,



J. Curtis Henderson
Executive Vice President and General Counsel

Cc: Ralph P. Manoushagian

Enclosures: Ordinance 2008-3
P&Z Letter
Ordinance 2000-1