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

ORIGINAL

IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION FOR  
THE PURPOSE OF CONSIDERING:

APPLICATION OF APPROACH OPERATING LLC  
FOR DESIGNATION OF A NON-STANDARD  
SPACING AND PRORATION UNIT,  
RIO ARRIBA, NEW MEXICO.

CASE NO: 14522

REPORTER'S TRANSCRIPT OF PROCEEDING  
EXAMINER HEARING

BEFORE: TERRY WARNELL, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

April 28, 2011

Santa Fe, New Mexico

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This matter came on for hearing before the New Mexico Oil Conservation Division, TERRY WARNELL, Technical Examiner, and DAVID K. BROOKS, Legal Examiner, on April 28, 2011, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis, Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado, NM CCR 253  
Paul Baca Professional Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

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A P P E A R A N C E S

FOR THE APPLICANT:

MONTGOMERY & ANDREWS  
J. SCOTT HALL, ESQ  
325 Paseo de Peralta  
Santa Fe, NM 87501  
(505) 982-3873

I N D E X

EXHIBITS

EXHIBITS 1 THROUGH 3 ADMITTED

08

1 EXAMINER BROOKS: Very good. The docket is, as you  
2 all can tell, is very substantially reduced. At this time we  
3 will call Case Number 14522, Application of Approach  
4 Operating LLC for designation of the non-standard spacing  
5 unit, Rio Arriba County, New Mexico.

6 Call for appearances.

7 MR. HALL: Mr. Examiner, Scott Hall, Montgomery and  
8 Andrews Law Firm, Santa Fe, appearing on behalf of the  
9 applicant Approach Operating LLC. I will be presenting this  
10 case to you by affidavit this morning.

11 EXAMINER BROOKS: Okay.

12 MR. HALL: And an additional case, which I believe  
13 we might be able to consolidate these into a single hearing,  
14 Case 14567 -- sorry -- 14576.

15 EXAMINER BROOKS: 14576, okay.

16 MR. HALL: That case I understand Ms. Davidson had  
17 an inquiry from Mr. Esquibel.

18 EXAMINER BROOKS: He actually filed a letter in this  
19 case. Is there anyone -- is Mr. Esquibel or anyone  
20 representing him present this morning?

21 UNIDENTIFIED PARTICIPANT: (Raising hand.)

22 EXAMINER BROOKS: You, gentleman just by the door  
23 back there, are you appearing in this case?

24 UNIDENTIFIED PARTICIPANT: Not to give testimony or  
25 anything, just to be present.

1           EXAMINER BROOKS: Okay. Very good. Well, is it  
2 your intention then to consolidate these two cases? I  
3 understand they involve different tracts, different  
4 locations, so --

5           MR. HALL: Only for purposes of saving time. If you  
6 feel the need to issue -- I think it does call for separate  
7 orders in each case.

8           EXAMINER BROOKS: Yes. Okay. Well, let's proceed  
9 separately on the two cases since they are separate land  
10 issues. I will let you go ahead --

11          MR. HALL: Will do.

12          EXAMINER BROOKS: -- with the affidavit. You are  
13 presenting by affidavit?

14          MR. HALL: Yes, sir. Mr. Examiner, if you will look  
15 at the affidavit before you, you will see the affidavit OF  
16 Brice Morgan is the area landman for Approach Operating LLC  
17 who manages the company's New Mexico property. He indicates  
18 his familiarity with the properties in this particular  
19 project and explains that Approach is seeking the approval of  
20 a 31.7 acre non-standard spacing unit which will be dedicated  
21 to the approach of Avella Sultemeier Well Number 2.

22                 That land is located generally in the northwest  
23 southwest of projected Section 21 in -- what did I do with  
24 the township -- 28 North Fork East, Rio Arriba County, New  
25 Mexico.

1           By way of explanation, Mr. Examiner, this  
2 application began as a request for administrative approval  
3 for the non-standard unit, as well as an unorthodox well  
4 location, and we had made application to the Division for  
5 that. And the Division pointed out that a close reading of  
6 the Division's rule, which is Rule 19.15.15.11 B(1), provides  
7 for administrative approvals of non-standard unit  
8 applications in those cases where there is a variance in a  
9 legal subdivision pursuant to a survey of the United States.

10           In this case these lands are located in the  
11 unsurveyed portions of the Tierra Amarilla Land Grant. There  
12 is no survey there, so for that reason it was felt that the  
13 case ought to be advertised and taken to hearing. So that's  
14 why we are here today.

15           The lack of surveys in this part of the world  
16 requires operators to employ projected surveys that results  
17 in actual locations of actual section lines being uncertain.  
18 Depending on whether you project from existing surveys to the  
19 south or from the east, they will disagree by as much as a  
20 mile in some cases.

21           And so when we use the subject line -- the section  
22 lines on the C-102 plats, they are, at best, estimates of the  
23 actual location of the section line, and the size of the unit  
24 and the well location itself, it's proximity to a section  
25 line are somewhat in question. However, the well location

1 itself is surveyed by lats and the longs, and its location is  
2 absolutely certain.

3 The administrative application we had initially  
4 submitted to the Division is shown as Exhibit B, and it is  
5 complete, along with the checklist required by the Division,  
6 and it has the APDs and C-102s showing the survey plat for  
7 this particular area.

8 The well location itself may have caused some raised  
9 eyebrows at the time as it was 1,662 feet from the south  
10 line, and then 6 feet from the west line of the section.  
11 And, again, that's by virtue of the uncertainty of the actual  
12 location of the section lines in this area.

13 The Division, in fact, approved the non-standard  
14 location aspect of the administrative application, and denied  
15 without prejudice the non-standard unit requests for leave  
16 asking that it be taken to hearing for the reasons I  
17 explained. The order that approved the non-standard location  
18 is attached to Mr. Morgan's affidavit as Exhibit D.

19 EXAMINER BROOKS: B?

20 MR. HALL: D. And I might also explain to you,  
21 Mr. Examiner, this is one of nine well location permits that  
22 the company has also obtained approvals for from Rio Arriba  
23 County pursuant to its well and gas drilling ordinance.  
24 Provisions of those ordinance dictate sub-acts from water  
25 courses, take into consideration terrain, existing roads, et

1 cetera, all of those spectors having a lot do with the  
2 ultimate location of this well and the size of the  
3 non-standard unit as well.

4           The 31.7-acre size of this unit is still within the  
5 tolerance under the Division rules and would have otherwise  
6 qualified for approval administratively. We did provide  
7 notice in this case, and at the direction of the Division, we  
8 gave notice to all mineral interest owners, in this case,  
9 unleased that were not otherwise owned or controlled by the  
10 applicant, and notification went out to the individual  
11 reflected on Exhibit E to the administrative application, and  
12 then as shown again on the Exhibit A below that.

13           And if you will also turn to Exhibit 3, the very  
14 last exhibit, it is my affidavit indicating that, in addition  
15 to notification provided for the administrative application,  
16 we notified the same individual of the hearing application as  
17 well.

18           EXAMINER BROOKS: Okay.

19           MR. HALL: Turning back to Exhibit 2, that is the  
20 affidavit of Theodore Oldham of Ft. Worth, Texas. He is the  
21 senior geologist for Approach Resources, Inc., and Approach  
22 Operating LLC, Inc. And he explains that the target for this  
23 Avella Sultemeier Number 2 Well is the Greenhorne member of  
24 the Mancos formation. And he has provided us with, under his  
25 affidavit, an Exhibit A, which, again, is a survey plat of

1 his non-standard unit and the well location.

2 Exhibit B is a structure map of the Greenhorne  
3 member. It shows this well location in proximity of the  
4 closest well, the Esquibel Number 1 Well, to the south and  
5 east.

6 Exhibit C is a Mancos Shale Isopach. And then  
7 Exhibit D is a type log for the area taken off the Esquibel  
8 Number 1 Well showing the vertical extent of the Mancos  
9 formation in the immediate area and also identifies the  
10 approximate location of the Greenhorne, which again is the  
11 target.

12 Mr. Oldham also opines that he believes the Mancos  
13 formation and its submembers are likely prospective for oil  
14 production in this area.

15 With that, I would move the admission of Exhibits 1,  
16 2 and 3, and that concludes our case in this matter.

17 EXAMINER BROOKS: Okay. Exhibits 1, 2 and 3 are  
18 admitted.

19 (Exhibits 1, 2 and 3 admitted.)

20 EXAMINER BROOKS: You show a lease line on the plat  
21 that is Exhibit A to Exhibit 2, and then which is also part  
22 of Exhibit 1. And the Esquibel well, apparently, if I read  
23 these maps correctly, is on the other side of that lease  
24 line. Does Approach -- or both -- does Approach have leases  
25 on both tracts?

1 MR. HALL: I don't believe so, Mr. Examiner.

2 EXAMINER BROOKS: Okay. What is the status of the  
3 Esquibel well?

4 MR. HALL: It is not producing. I do not know if it  
5 is actually plugged. It was well drilled by Coquina.

6 EXAMINER BROOKS: Okay.

7 MR. HALL: I think it's more than 30 years old.

8 EXAMINER BROOKS: Okay. So it's considered a  
9 depleted well, then?

10 MR. HALL: Non-producing.

11 EXAMINER BROOKS: Or is it dry? Did it ever  
12 produce?

13 MR. HALL: I do not know.

14 EXAMINER BROOKS: Okay. Is there anything in any of  
15 these affidavits that explains why this non-standard unit is  
16 configured the way that it is?

17 MR. HALL: It's to conform to lease ownership on the  
18 east side.

19 EXAMINER BROOKS: Yeah, I assumed that. It  
20 doesn't --

21 MR. HALL: Yeah. The northern boundary, which is  
22 angled, also conforms to, it's my understanding, surface and  
23 mineral ownership in basically the north half of Section 21,  
24 which the company does own the lease for.

25 EXAMINER BROOKS: And you notified all the

1 offsetting mineral owners?

2 MR. HALL: Yes.

3 EXAMINER BROOKS: Okay. We'll look into this.

4 This -- I had directed this go to hearing, which I think  
5 clearly was appropriate down under the rules. It represents  
6 an approach to not -- an approach to spacing that's very  
7 different from what we have always done in New Mexico, but  
8 we'll see what paperwork they do with it. Absent anything  
9 further, Case Number 14522 is taken under advisement.

10 In view of Mr. Esquibel's statement that he doesn't  
11 intend to present any evidence, I think we can incorporate  
12 the record of the hearing in Case Number 14522 into Case  
13 Number 14576, and you can add any further observation to that  
14 case. So at this time we will take Case Number 14522 under  
15 advisement.

16 (Concluded.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 14522  
heard by me on 4-28-11

David K. Brooks Examiner  
Oil Conservation Division

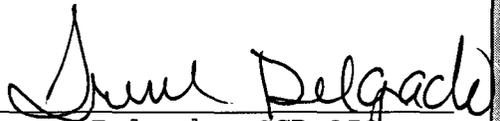
REPORTER'S CERTIFICATE

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I, IRENE DELGADO, New Mexico CCR 253, DO HEREBY CERTIFY THAT ON April 28, 2011, proceedings in the above-captioned case were taken before me and that I did report in stenographic shorthand the proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with any of the parties or attorneys in this case and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this 28th day of April 2011.

  
Irene Delgado, CCR 253  
Expires: 12-31-2011