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Reply to Santa Fe Office

May 14, 2008

### Hand-Delivered

Ms. Florene Davidson  
New Mexico Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Re: *NMOCD Case No. 14134: 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.*

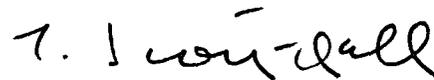
Dear Ms. Davidson:

Enclosed for filing are the original and two copies of Approach Operating LLC's, Response to Motion to Vacate and Reschedule Hearing in the above-referenced matter.

Thank you.

Very truly yours,

Montgomery & Andrews, P. A.



J. Scott Hall

JSH/dk

Enclosures: As stated

STATE OF NEW MEXICO RECEIVED  
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES  
OIL CONSERVATION DIVISION 14 PM 2 06

**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

**RESPONSE TO  
MOTION TO VACATE AND RESCHEDULE HEARING**

APPROACH OPERATING LLC, ("Approach"), through its undersigned attorneys, Montgomery and Andrews, P.A., (J. Scott Hall) responds to the Motion to Vacate and Reschedule Hearing filed on behalf of the Applicant.

On information and belief, on approximately April 28, 2008, Applicant requested the Division's review of APD's for four of Approach's wells. Although it is clearly an "affected person" within the Division's rules, Approach has yet to be provided with Applicant's Application. Neither has Approach been provided with notice.<sup>11</sup>

Approach Oil and Gas Inc. owns the oil and gas lease upon which the four wells will be drilled by Approach Operating, LLC. The lease represents a substantial investment in terms of both capital and effort. The lease embraces 90,357 acres, ±. As the Applicant knows, under the terms of the lease, eight wells must be drilled before the end of the primary term on April 2, 2009, or the lease is subject to automatic termination. The drillsites are not accessible year-round. Consequently, Approach has only a limited opportunity this summer to fulfill its drilling commitment.

Approach opposes any delays which will frustrate its ability to exercise and preserve its property rights. If it is prevented from drilling and its lease becomes lost, Approach will incur significant consequential damages.

Under these extraordinary circumstances, a scheduling conflict is an insufficient justification for a delay. Having invoked the administrative processes of the Division in the first place, the Applicant should be prepared to present its case on schedule as it originally requested. Applicant is represented by no fewer than three attorneys, any one of whom is capable of presenting the Applicant's case on schedule.

Applicant's motion should be denied. Alternatively, the Applicant's case should be set for special examiner hearing so that undue delays can be avoided.

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By: \_\_\_\_\_

*J. Scott Hall*

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 14th day of May, 2008 as follows:

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J. Scott Hall

While Approach waives no rights with respect to notice, it is willing to work with the Applicant and the Division to resolve this matter in a timely manner