

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

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING
EDDY COUNTY, NEW MEXICO.**

**Commission Case No. 21744
Case Nos. 21629
Order No. R-21575
Order No. R-21575-A
Order No. R-21575-B**

PRE-HEARING STATEMENT FOR EVIDENTIARY HEARING

This Pre-hearing Statement is submitted by COLGATE OPERATING, LLC, by and through its undersigned counsel, Ernest L. Padilla, PADILLA LAW FIRM, P.A., as required by the Oil Conservation Commission.

APPEARANCES OF PARTIES

APPLICANT: COLGATE OPERATING LLC

ATTORNEY: Ernest L. Padilla
Padilla Law Firm, P.A.
P.O. Box 2523
Santa Fe, NM 87504
(505) 988-7577
padillalawnm@outlook.com

CIMAREX ENERGY CO.

ATTORNEY: Darin C. Savage
William E. Zimsky
Andrew D. Schill
ABADIE & SCHILL, PC
214 McKenzie Street
Santa Fe, New Mexico 87501
(970) 385-4401
darin@abadieschill.com
bill@abadieschill.com
andrew@abadieschill.com

OPPOSITION OR OTHER PARTY:

CIMAREX ENERGY CO.

ATTORNEY:

Darin C. Savage
William E. Zimsky
Andrew D. Schill
ABADIE & SCHILL, PC
214 McKenzie Street
Santa Fe, New Mexico 87501
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bill@abadieschill.com
andrew@abadieschill.com

STATEMENT OF CASE

APPLICANT:

The issue in this case is whether Colgate made a good faith effort to join Cimarex Energy and its affiliate Magnum Hunter (“Cimarex”) in the drilling of the Meridian 3 Fed State Com 131H well. Cimarex contends that Colgate’s landman made material misrepresentation in his affidavit filled before the Division and that he did not make a good faith effort in seeking compulsory pooling of the Cimarex interest. Colgate made well proposals to working interest owners on July 10, 2020. On August 18, 2020, Cimarex landman, Mr. John Coffman reached out to Colgate’s landman, Mark Hajdik, and made inquiries about the well proposal. On August 31, Mr. Hajdik responded to Coffman’s email. Mr. Coffman never responded.

Cimarex has dropped the ball in this case by not responding to the August 31 email from Mr. Hajdik. Cimarex is an experienced company in regulatory matters and has handled many compulsory pooling cases before the Division. It dropped the ball again when it failed to properly handle notice of the hearing, and has admitted that it received the notice, but mishandled it. These instances of negligence on the part of Cimarex are inexcusable and should not be characterized as lack of good faith by Cimarex.

Colgate will rely on the land exhibits submitted at the Division hearing which was presented through affidavit. The evidence will show that Colgate made a well proposal to Cimarex

OPPOSITION OR OTHER PARTY:

PROPOSED EVIDENCE

APPLICANT

WITNESSES		EST. TIME	EXHIBITS
Name	Title	Est. time	Exhibits
Mark Hajdik	Landman	20 minutes	Approximately 6

OPPOSITION

WITNESSES

EST. TIME

EXHIBITS

PROCEDURAL MATTERS

PADILLA LAW FIRM, P.A.

/s/ Ernest L. Padilla

Ernest L. Padilla

Attorney for Colgate Operating, LLC

PO Box 2523

Santa Fe, New Mexico 87504

505-988-7577

padillalawnm@outlook.com

CERTIFICATE OF SERVICE

I certify that on February 15, 2022, I served a copy of the foregoing pleading by electronic mail to:

Darin C. Savage

William E. Zimsky

Andrew D. Schill

darin@abadieschill.com

bill@abadieschill.com

andrew@abadieschill.com

/s/ Ernest L. Padilla

Ernest L. Padilla

**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
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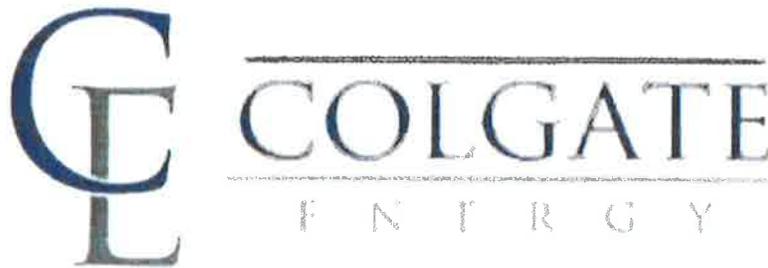
**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NO. 21629

Examiner Docket: January 7, 2021

COLGATE'S EXHIBITS

Meridian 3 Fed State Com 131H



Earl E. DeBrine, Jr.
Lance D. Hough

 **MODRALL SPERTING**
500 Fourth Street NW, Suite 1000
P. O. Box 2168 / Albuquerque, NM 87103
Telephone 505.848.1800
edebrine@modrall.com
ldh@modrall.com

Exhibit A **Compulsory Pooling Application Checklist**

Exhibit B **Affidavit of Mark Hajdik**

- B-1 Application
- B-2 C102 Draft Plat
- B-3 Communication Timeline
- B-4 Tract Map with WIs and ORRIs
- B-5 Well Proposal Letter
- B-6 Authorization for Expenditures

Exhibit C **Affidavit of Sergio Ojeda**

- C-1 Regional Locator Map
- C-2 Cross-Section Locator Map
- C-3 Gun Barrel Diagram
- C-4 Third Bone Spring Structure Map
- C-5 Third Bone Spring Isopach Map
- C-6 Stratigraphic Cross Section
- C-7 Third Bone Spring Target Zone within Stratigraphic Cross Section

Exhibit D **Affidavit of Lance D. Hough**

- D-1 Hearing Notice / 12/18/20
- D-2 Certified Mail Log / Notice 12/18/20
- Certified Mail Log / Report 01/04/21
- D-4 Affidavit of Publication / 12/22/20

Earl E. DeBrine, Jr.

Lance D. Hough

 **MODRALL SPERLING**

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COMPULSORY POOLING APPLICATION CHECKLIST

ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS

Case: 21629	APPLICANT'S RESPONSE
Date	January 7, 2021
Applicant	Colgate Operating LLC
Designated Operator & OGRID (affiliation if applicable)	Colgate Operating, LLC (OGRID 371449)
Applicant's Counsel:	Modrall Sperling
Case Title:	APPLICATION OF COLGATE OPERATING LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO, CASE NO. 21629
Entries of Appearance/Intervenors:	J.M. Welborn Trust
Well Family	Meridian
Formation/Pool	
Formation Name(s) or Vertical Extent:	Bone Spring Formation
Primary Product (Oil or Gas):	Oil
Pooling this vertical extent:	Bone Spring Formation
Pool Name and Pool Code:	Parkway; Bone Spring Pool (Code 49622)
Well Location Setback Rules:	Latest Statewide Horizontal Rules Apply
Spacing Unit Size:	Approximately 320 Acres
Spacing Unit	
Type (Horizontal/Vertical)	Horizontal
Size (Acres)	320 Acres
Building Blocks:	Quarter Quarter Sections
Orientation:	East to West
Description: TRS/County	N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico
Standard Horizontal Well Spacing Unit (Y/N), if No, describe	Yes
Other Situations	
Depth Severance: Y/N. If yes, description	No
Proximity Tracts: If yes, description	No
Proximity Defining Well: if yes, description	N/A
Applicant's Ownership in Each Tract	Exhibit B.4
Well(s)	
Name & API (if assigned), surface and bottom hole location, footages, completion target, orientation, completion status (standard or non-standard)	See Exhibits B.1 and B.2



Well #1	Meridian 3 Fed State Com 131H SHL: 1035 feet from the North line and 453 feet from the West line, N/2 N/2 of Section 3, Township 20 South, Range 29 East, NMPM, Eddy County. BHL: 910 feet from the North line and 100 feet from the East line, N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County. Completion Target: 3rd Bone Spring at approx 9,125 feet TVD. Well Orientation: East to West Completion Location expected to be: standard
Horizontal Well First and Last Take Points	Exhibit B.2
Completion Target (Formation, TVD and MD)	Exhibit B; Exhibit B.1; Exhibit B.5; Exhibit C.3; Exhibits C.6 and C.7
AFE Capex and Operating Costs	
Drilling Supervision/Month \$	8,000
Production Supervision/Month \$	800
Justification for Supervision Costs	Exhibit B.6 for AFEs
Requested Risk Charge	200%; see Exhibit B
Notice of Hearing	
Proposed Notice of Hearing	Exhibit D.1
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit D.2
Proof of Published Notice of Hearing (10 days before hearing)	Exhibit D.3
Ownership Determination	
Land Ownership Schematic of the Spacing Unit	Exhibit B; Exhibit B.4
Tract List (including lease numbers and owners)	Exhibit B.4
Pooled Parties (including ownership type)	Exhibit B.4
Unlocatable Parties to be Pooled	Exhibit B.4; Exhibit D.2
Ownership Depth Severance (including percentage above & below)	None
Joinder	
Sample Copy of Proposal Letter	Exhibit B.5
List of Interest Owners (ie Exhibit A of JOA)	Exhibit B.4
Chronology of Contact with Non-Joined Working Interests	Exhibit B.3
Overhead Rates In Proposal Letter	Exhibit B.5
Cost Estimate to Drill and Complete	Exhibit B.6 for AFEs
Cost Estimate to Equip Well	Exhibit B.6 for AFEs
Cost Estimate for Production Facilities	Exhibit B.6 for AFEs
Geology	
Summary (including special considerations)	Exhibit C

Spacing Unit Schematic	Exhibits B.2, C.2, and C.3
Gunbarrel/Lateral Trajectory Schematic	Exhibit C.3
Well Orientation (with rationale)	Exhibit C
Target Formation	Exhibits C.3 through C.7
HSU Cross Section	Exhibits C.6 and C.7
Depth Severance Discussion	Exhibit B
Forms, Figures and Tables	
C-102	Exhibit B.2 for draft plat. Colgate anticipates supplementing with the C-102 by 1/8/21
Tracts	Exhibit B.2
Summary of Interests, Unit Recapitulation (Tracts)	Exhibit B.2
General Location Map (including basin)	Exhibit C.1
Well Bore Location Map	Exhibits C.2 through C.7
Structure Contour Map - Subsea Depth	Exhibits C.4
Cross Section Location Map (including wells)	Exhibit C.2
Cross Section (including Landing Zone)	Exhibits C.6 and C.7
Additional Information	
Special Provisions/Stipulations	None
CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.	
Printed Name (Attorney or Party Representative):	Lance Hough
Signed Name (Attorney or Party Representative):	
Date:	1/5/2021

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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NO. 21629

AFFIDAVIT OF MARK HAJDIK

STATE OF TEXAS)
) ss.
COUNTY OF MIDLAND)

Mark Hajdik, being duly sworn, deposes and states:

1. I am a landman for Colgate Operating, LLC (“Colgate”), over the age of 18 and have personal knowledge of the matters stated herein. I have previously been qualified to testify by the New Mexico Oil Conservation Division as an expert in petroleum land matters and my credentials were accepted and made part of the record in those proceedings.

2. I am familiar with the application filed by Colgate in the above-referenced case and the land matters involved. Pursuant to NMAC 19.15.4.12.A(1), the following information is submitted in support of the above referenced compulsory pooling applications filed by Colgate.

3. This case involves a request for an order from the Division for compulsory pooling of interest owners who have refused to voluntarily pool their interests for the proposed Bone Spring horizontal spacing unit described below, and in the well to be drilled in the horizontal spacing unit.

4. Prior to filing its application, Colgate made a good faith effort to obtain voluntary joinder of the working interest owners in the proposed well. Colgate identified all of the working interest, unleased mineral interests, and overriding royalty interest owners from a title opinion. To locate interest owners, Colgate conducted a diligent search of the public records in the county where the well will be located, and conducted phone directory and computer searches to locate



contact information for parties entitled to notification. I mailed all working interest owners a well proposal and an Authorization for Expenditure, and a form of Operating Agreement upon request.

5. No opposition is expected. Prior to filing its application, Colgate contacted the interest owners being pooled regarding the proposed well; the pooled working interest owners have failed or refused to voluntarily commit their interests in the well. Colgate provided all of the working interest owners, any unleased mineral owners, and overriding royalty owners with notice of this application, and none have entered an appearance in opposition to Colgate's application.

6. In its Application, Colgate seeks an order from the Division: (1) to the extent necessary, approving the creation of a 320-acre, more or less, Bone Spring horizontal spacing unit; and, (2) pooling all uncommitted mineral interests within a Bone Spring horizontal spacing unit underlying the N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico. This spacing unit will be dedicated to the **Meridian 3 Fed State Com 131H** well, to be horizontally drilled. The Application is attached hereto as **Exhibit B.1**.

7. Attached as **Exhibit B.2** is a draft plat for the proposed well. The well will develop the Parkway; Bone Spring Pool (Code 49622). The producing interval for the well will be orthodox and comply with the Division's set back requirements, as the first and last take points will be no closer than 100' from the proposed unit boundary and the completed lateral will be no closer than 330' from the proposed unit boundary.

8. Attached as **Exhibit B.3** is a summary of communications with non-joined working interest owners regarding proposed well within the unit that is the subject of this application.

9. Attached as **Exhibit B.4** is a lease tract map outlining the tracts in both of the proposed units, a list of the working interest owners in the proposed units with their respective

percentage of interest and whether they are being pooled, and a list of overriding royalty interest owners in the proposed units.

10. Attached as **Exhibit B.5** is a sample well proposal letter sent to each of the working interest owners seeking their voluntary participation in the proposed well that provides overhead and administrative rates of \$8,000/month during drilling and \$800/month while producing.

11. Attached as **Exhibit B.6** is the Authorization for Expenditure for the proposed well. The estimated costs of the **Meridian 3 Fed State Com 131H** well set forth therein is \$6,777,437. The estimated costs are fair and reasonable, and are comparable to the costs of other wells of similar depth, length and completion method being drilled in this area of New Mexico.

12. There are no depth severances within the proposed Bone Spring spacing unit.

13. Colgate requests overhead and administrative rates of \$8,000/month during drilling and \$800/month while producing. These rates are fair and comparable to the rates charged by other operators for wells of this type in this area of Southeastern, New Mexico and consistent with the rates awarded by the Division in recent compulsory pooling orders. Colgate requests that these rates be adjusted periodically as provided in the COPAS Accounting Procedure.

14. Colgate requests the maximum cost plus 200% risk charge be assessed against non-consenting pooled working interest owners.

15. Colgate requests that it be designated operator of the well.

16. Colgate requests that it be allowed a period of one (1) year between when the designated well is drilled and when the well is completed under the order.

17. The parties Colgate is seeking to pool were notified of this hearing.

18. Colgate requests that overriding royalty interest owners be pooled.

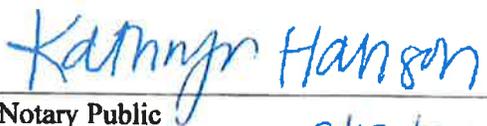
19. Based upon my knowledge of the land matters involved in this case, education and training, it is my expert opinion that the granting of Colgate's application in this case is in the interests of conservation and the prevention of waste.

20. The attachments to my Affidavit were prepared by me or compiled from company business records.

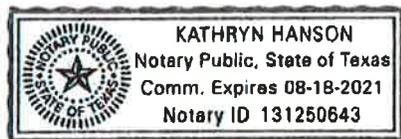
21. Pursuant to Rule 1-011 NMRA, I declare and affirm under penalty of perjury under the laws of the State of New Mexico that the foregoing statements are true and correct to the best of my knowledge and belief.


Mark Hajdik

SUBSCRIBED AND SWORN to before me this 31 day of December 2020 by Mark Hajdik, on behalf of Colgate Operating, LLC.


Notary Public
My commission expires: 8/18/21

SEAL



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

**APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

CASE NO. _____

APPLICATION

Colgate Operating, LLC (“Colgate”), OGRID Number 371449, through its undersigned attorneys, hereby makes an application to the Oil Conservation Division pursuant to the provisions of NMSA (1978), Section 70-2-17, for an order pooling all uncommitted mineral interests within a Bone Spring horizontal spacing unit underlying the N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico. In support of this application, Colgate states as follows:

1. Colgate is an interest owner in the subject lands and has a right to drill a well thereon.
2. Colgate seeks to dedicate the N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico to form a 320-acre, more or less, Bone Spring horizontal spacing unit.
3. Colgate plans to drill the **Meridian 3 Fed State Com 131H** well to a depth sufficient to test the Bone Spring formation. This is a horizontal well with a surface location in the NW/4 NW/4 (Unit D) of Section 3, Township 20 South, Range 29 East, NMPM, Eddy County, and an intended bottom hole location in the NE/4 NE/4 (Unit A) of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County.



4. This well is proposed to be drilled vertically to a depth of approximately 9,125' to the Bone Spring formation and laterally in a easterly direction within the formation to the referenced bottom hole location.

5. This well will be located within the Parkway; Bone Spring Pool (Code 49622) and will comply with the Division's setback requirements.

6. Colgate sought, but has been unable to obtain, a voluntary agreement from all interest owners in the Bone Spring formation underlying the proposed spacing unit to participate in the drilling of the well or to otherwise commit their interests to the well.

7. The creation of a horizontal spacing unit and the pooling of all interests in the Bone Spring formation underlying the proposed unit will prevent the drilling of unnecessary wells, prevent waste and protect correlative rights.

WHEREFORE, Colgate requests that this case is set for hearing before an Examiner of the Oil Conservation Division on January 7, 2020, and after notice and hearing as required by law, the Division enter its order:

A. Creating an approximately 320-acre horizontal spacing unit in the Bone Spring formation comprised of N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico;

B. Pooling all mineral interests in the Bone Spring formation underlying a horizontal spacing unit within the N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico;

C. Designating Colgate as operator of this unit and the well to be drilled thereon;

- D. Authorizing Colgate to recover its costs of drilling, completing and equipping the well;
- E. Approving actual operating charges and costs charged for supervision, together with a provision adjusting the rates pursuant to the COPAS accounting procedure;
- F. Setting a 200% charge for the risk involved in drilling and completing the well in the event a working interest owner elects not to participate in the well.

Respectfully submitted,

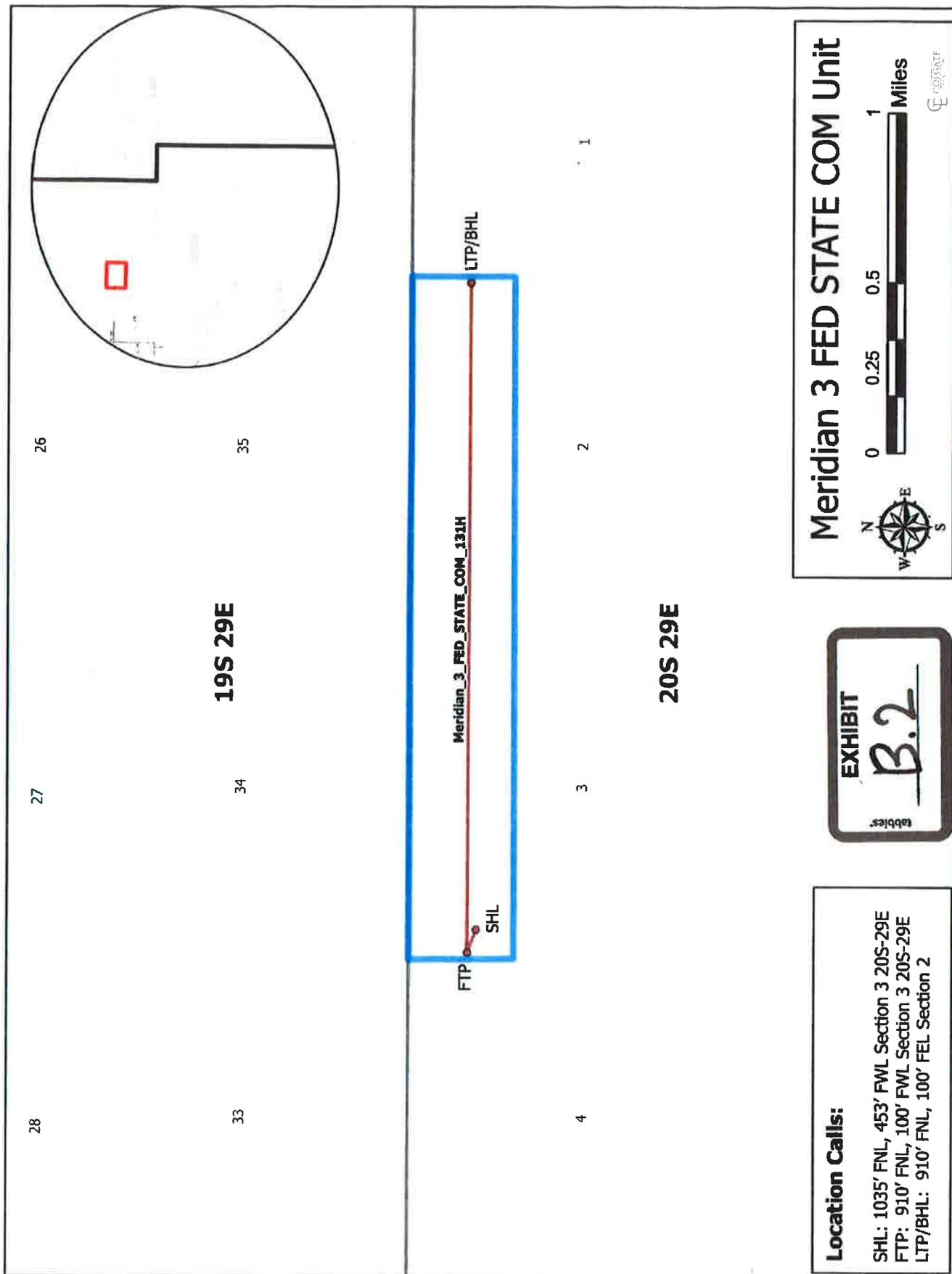
MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: 

Earl E. DeBrine, Jr.
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lance.hough@modrall.com
Attorneys for Applicant

W3914129.DOCX

Application of Colgate Operating, LLC for compulsory pooling, Eddy County, New Mexico. Applicant seeks an order from the Division: (1) to the extent necessary, approving the creation of a 320-acre, more or less, Bone Spring horizontal spacing unit; and, (2) pooling all uncommitted mineral interests within a Bone Spring horizontal spacing unit underlying the N/2 N/2 of Section 3 and the N/2 N/2 of Section 2, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico. This spacing unit will be dedicated to the **Meridian 3 Fed State Com 131H** well, to be horizontally drilled. The producing interval for this well will be orthodox. Also to be considered will be the cost of drilling, completing and equipping said well, the allocation of these costs as well as the actual operating costs and charges for supervision, designation of Colgate as operator of the well, and a 200% charge for risk involved in drilling said well. Said area is located approximately 15.5 miles northeast of Carlsbad, New Mexico.



Meridian 3 FED STATE COM Unit

0 0.25 0.5 1 Miles

Scale bar and north arrow.

EXHIBIT
B.2

Location Calls:
 SHL: 1035' FNL, 453' FWL Section 3 20S-29E
 FTP: 910' FNL, 100' FWL Section 3 20S-29E
 LTP/BHL: 910' FNL, 100' FEL Section 2

Communication Timeline

July 10, 2020 – Proposals sent for the Meridian 3 Fed State Com 131H

October/November, 2020 – Various trade proposals exchanged with Concho along with a number of communications between Colgate and Concho on trade ideas that included this well. Ultimately trade negotiations were unsuccessful, and no trade was completed.

August 2020 - Ramsland Oil and Gas, Bahnhof, and Robinson elected to participate, but have not signed the Operating Agreement to date

September 2020-January 2021 – Reached agreement and finalizing purchase of Manada and Canyon's interest in the spacing unit.

August 2020-January 2021 – responded to various email questions from WPX, Cimarex, and a number of small WI owners who have not made any affirmative decision regarding their participation or willingness to sell

July 2020-January 2021 – Various email exchanges with JM Welborn Trust

July 2020-October 2020 – Challenger, Jerlyn, Marshall & Winston, Hill Royalty, and Petrohill returned AFEs but have not yet signed JOAs.

December 2020 – Conoco has agreed to participate, but has not yet executed the Operating Agreement

December 31, 2020 - Provided offer to purchase JM Welborn Trust interest that aligns in price with other accepted offers in the spacing unit

January 4, 2021 – Exchanged emails with JM Welborn Trust regarding counter-offer

January 4, 2021 – As of this date a number of the parties have not responded to the notices or have provided follow up decisions regarding their intent to sell or participate



LEASE TRACT MAP

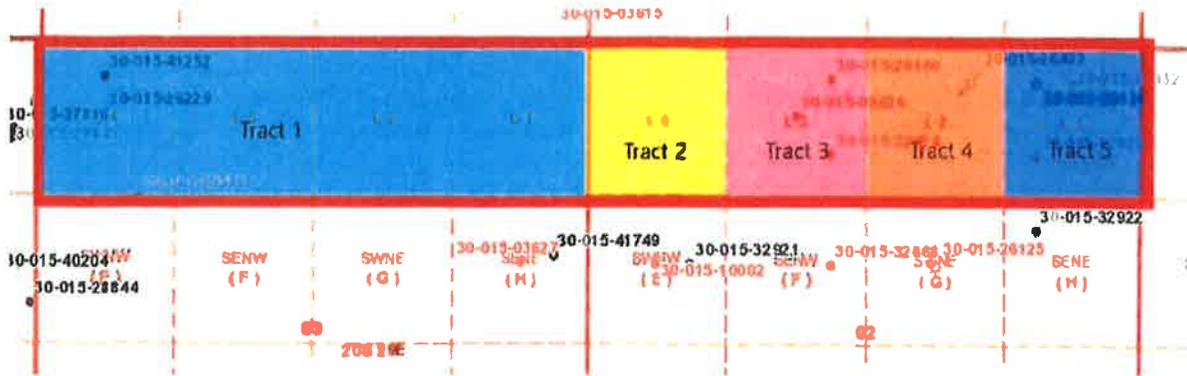


EXHIBIT
B.4

WI OWNER	TRACT	NET	WI	FORCE POOL INTEREST
Colgate Production, LLC	1 & 4	87.2004	27.25%	Operator
ConocoPhillips Company	1	48	15.00%	Yes
COG Operating LLC	1	28.3274	8.85%	Yes
WPX Energy Permian	1	0.27781	0.09%	Yes
Diane Denish	1	0.11667	0.04%	Yes
Sara Schreiber	1	0.03889	0.01%	Yes
Suzanne Schreiber	1	0.03889	0.01%	Yes
Magnum Hunter	3, 5	80	25.00%	Yes
Richmond Resources	2, 4	50	15.63%	Yes
Challenger Crude, Ltd.	4	3.75	1.17%	Yes
Marshall & Winston	4	3	0.94%	Yes
Cal Mon Oil Company	4	2.55	0.80%	Yes
Geraldine Zoller	4	2	0.63%	Yes
Hendrix Revocable Trust	4	1.875	0.59%	Yes
Jerlyn Investments	4	1.875	0.59%	Yes
Ernest Angelo et ux	4	1.5	0.47%	Yes
JM Welborn Trust	4	1	0.31%	Yes
Pendragon Production Company	4	1	0.31%	Yes
Gasco Energy	4	0.58333	0.18%	Yes
Waltrip Energy	4	0.58333	0.18%	Yes
Jane B. Ramsland Oil and Gas	4	0.52802	0.17%	Yes
Horseshoe Drilling Corp	4	0.5	0.16%	Yes
H-S Minerals and Realty	4	0.5	0.16%	Yes
Hill Investments	4	0.5	0.16%	Yes
Barnes Family Partnership	4	0.46363	0.14%	Yes

Thomas Hill Puff Trust	4	0.41667	0.13%	Yes
Nancy Puff Jones Trust	4	0.41667	0.13%	Yes
C. F. Wynn	4	0.35287	0.11%	Yes
RLMPKM LLC	4	0.3	0.09%	Yes
Adrienne Suzanne Wynn Beauchamp Charitable Trust	4	0.21121	0.07%	Yes
Enoch Energy	4	0.16667	0.05%	Yes
Castlerock Exploration	4	0.16667	0.05%	Yes
McCrea Energy	4	0.16667	0.05%	Yes
Christine B. Motycka	4	0.15454	0.05%	Yes
Steven C. Barnes	4	0.15454	0.05%	Yes
V. Elaine Barnes	4	0.15454	0.05%	Yes
Julie Ellen Barnes	4	0.15454	0.05%	Yes
Tocor Investments	4	0.15	0.05%	Yes
C.R. Burch	4	0.14166	0.04%	Yes
Banhof Holdings	4	0.14166	0.04%	Yes
Laurie Barr Family Trust	4	0.14166	0.04%	Yes
Elizabeth Ramsland	4	0.14143	0.04%	Yes
WFW Family Ltd	4	0.14143	0.04%	Yes
Forest Wynn	4	0.0528	0.02%	Yes
Taylor Wynn	4	0.0528	0.02%	Yes
Craig Barr	4	0.00322	0.00%	Yes
Zachariah Reid	4	0.00322	0.00%	Yes
Taylor Barr	4	0.00322	0.00%	Yes
Thomas Barr	4	0.00322	0.00%	Yes

ORRI OWNERS
Cal-Mon Oil Company
Ray Westall Operating, Inc.
Westall Oil and Gas, LLC
Ellen Brasel
Drew J. Bracken
Carol Lee Bracken
Joanne Sweeney



Via Certified Mail

July 10, 2020

RE: Meridian 3 Fed State Com Well Proposal
Sec. 3 & Sec. 2, T20S-29E, Bone Spring Formation
Eddy County, New Mexico

To whom it may concern:

Colgate Production, LLC ("Colgate"), hereby proposes the drilling of the Meridian 3 Fed State Com 131H at the following approximate location:

Meridian 3 Fed State Com 131H

SHL: To be located at a legal location in Unit L4 of Section 3-20S-29E

BHL: To be located at a legal location in Unit L1 Section 2-20S-29E

TVD: 9,125'

TMD: 19,485'

Targeted Interval: Bone Spring

Total Cost: See attached AFE

The locations, TVD's, and targets are approximate and subject to change depending on surface or subsurface issues encountered. Colgate is proposing to drill these wells under the modified terms of the 1989 AAPL Operating Agreement and a form of said Operating Agreement will be forwarded to you following your receipt of your election to participate. The Operating Agreement will have the following general provisions:

- 100%/200%/200% non-consent provisions
- \$8,000/\$800 drilling and producing rates
- Colgate Operating, LLC named as Operator

Please indicate your election to participate in the drilling and completion of the proposed wells in the space provided below. Please sign and return one copy of this letter, a signed copy of the previously proposed AFE, and your geologic well requirements.

Colgate will apply to the New Mexico Oil Conservation Division for compulsory pooling of your interest into a spacing unit for the proposed well, should we not reach an agreement within 30 days of the date of this letter. If you do not wish to participate Colgate would be interested in acquiring your interest in the subject lands.



If you have any questions regarding this matter, please give me a call at 432-257-3886 or via email at mhajdik@colgateenergy.com.

Sincerely,



Mark Hajdik
Senior Landman

Colgate Energy
300 N. Marienfeld St.
Suite 1000
Midland, TX 79701

Enclosures

Well Elections

_____ I/We hereby elect to participate in the Meridian 3 Fed State Com 131H.

_____ I/We hereby elect NOT to participate in the Meridian 3 Fed State Com 131H.

Working Interest Owner: _____

Printed Name: _____

Date: _____

Colgate Energy
 303 W. Wall St., Midland TX 79701
 Phone (432) 695-4257 • Fax (432) 695-4063

ESTIMATE OF COSTS AND AUTHORIZATION FOR EXPENDITURE

DATE:	7/10/2020	AFE NO.:	0
WELL NAME:	Meridian 3 Fed State Com 131H	FIELD:	Bone Spring
LOCATION:	Parkway	MD/TVD:	19485 / 9125
COUNTY/STATE:	Eddy	LATERAL LENGTH:	10,360
Colgate WI:	0.00%	DRILLING DAYS:	26,547
GEOLOGIC TARGET:	3rd Bone Spring	COMPLETION DAYS:	17

REMARKS: Drill and Complete 60 stages in the 3rd Bone Spring formation. AFE includes D&C, flowback & initial ESP install.

INTANGIBLE COSTS	DRILLING COSTS	COMPLETION COSTS	PRODUCTION COSTS	TOTAL COSTS
1 Land / Legal / Regulatory	35,000			35,000
2 Location, Surveys & Damages	150,000	15,000	10,000	175,000
4 Freight / Transportation	61,500	36,750		98,250
5 Rental - Surface Equipment	70,305	150,450	4,640	225,395
6 Rental - Downhole Equipment	75,616	36,000		129,616
7 Rental - Living Quarters	42,361	45,700	5,200	93,261
10 Directional Drilling, Surveys	264,879			264,879
11 Drilling	578,546			578,546
12 Drill Bits	141,500			141,500
13 Fuel & Power	86,410	210,000		296,410
14 Cementing & Float Equip	205,000			205,000
16 Performing Wireline, Slickline		260,750	8,000	268,750
17 High Pressure Pump Truck		10,000		10,000
18 Completion Unit, Swab, CTU		150,000	12,000	162,000
20 Mud Circulation System	104,412			104,412
21 Mud Logging	24,491			24,491
22 Logging / Formation Evaluation	8,024	8,000		16,024
23 Mud & Chemicals	111,532	308,000		419,532
24 Water	28,710	543,226		571,946
25 Stimulation		720,000		720,000
2b Stimulation Flowback & Disp		90,000		90,000
28 Mud / Wastewater Disposal	104,936	73,000		177,936
30 Rig Supervision / Engineering	123,682	79,600	9,800	213,082
32 Drig & Completion Overhead	9,955			9,955
35 Labor	120,500	30,500	10,000	161,000
54 Proppant		490,676		490,676
98 Insurance	35,789			35,789
97 Contingency	119,069	159,333	5,968	284,369
99 Plugging & Abandonment				
TOTAL INTANGIBLES >	2,900,432	3,438,986	65,648	6,085,067

TANGIBLE COSTS	DRILLING COSTS	COMPLETION COSTS	PRODUCTION COSTS	TOTAL COSTS
60 Surface Casing	8,177			8,177
61 Intermediate Casing	42,840			42,840
62 Drilling Liner	97,738			97,738
63 Production Casing	261,461			261,461
64 Production Liner				
65 Tubing			38,804	38,804
66 Wellhead	61,000	48,500		112,500
67 Packers, Liner Hangers	22,000		3,500	25,500
68 Tanks				
69 Production Vessels				
70 Flow Lines				
71 Rod string				
72 Artificial Lift Equipment			80,000	80,000
73 Compressor				
74 Installation Costs			35,000	35,000
75 Surface Pumps			5,000	5,000
76 Downhole Pumps			4,950	4,950
77 Measurement & Meter Installation				
78 Gas Conditioning / Dehydration				
79 Interconnecting Facility Piping				
80 Gathering / Bulk Lines				
81 Valves, Dumps, Controllers				
82 Tank / Facility Containment				
83 Flare Stack				
84 Electrical / Grounding			60,000	60,000
85 Communications / SCADA				
86 Instrumentation / Safety				
TOTAL TANGIBLES >	496,216	0	276,154	772,370
TOTAL COSTS >	2,996,649	3,438,986	341,802	6,777,437

PREPARED BY Colgate Energy:

Drilling Engineer:	Steven Segrest	
Completions Engineer:	Brady Adams	CRM
Production Engineer:	Levi Harris	

Colgate Energy APPROVAL:

Co-CEO	WHI	Co-CEO	JW	VP - Operations	CRM
VP - Land & Legal	BG	VP - Geosciences	SO		

NON OPERATING PARTNER APPROVAL:

Company Name:	_____	Working Interest (%):	_____	Tax ID:	_____
Signed by:	_____	Date:	_____		
Title:	_____	Approval:	<input type="checkbox"/> Yes <input type="checkbox"/> No (mark one)		

The costs under this AFE are estimates only and may be increased or will rise as any specific items or the final cost of the project. To begin construction approval under the AFE may be obtained by the partner when the well has been completed. In executing this AFE, the Participants agree to pay the responsibility of all of the costs not including, right, consent, regulatory, bonding and well costs under the terms of the applicable joint operating agreement, regulatory order or other agreement including this well. Participants shall be bound by and hold harmless the Operator in well costs and general liability incurred under applicable provisions of the applicable well operating agreement in the event of an increase in the amount payable to the Operator by the date of final.



Mark Hajdik

From: Mark Hajdik
Sent: Monday, August 31, 2020 10:28 PM
To: John Coffman
Subject: RE: Meridian Proposal

John,

As you probably noted, our operated strip is the N2 N2, which abuts to several additional operated units in the section due north. Due to our consolidated operational efficiencies we would be happy to talk some options for the offsetting acreage in order to fully maximize the development of the area.

Thanks,
Mark

Mark Hajdik | Colgate Energy | Senior Landman
300 N. Marienfeld St. | Suite 1000 | Midland, TX 79701
O: (432) 257-3886 | C: (832) 904-6006
Email: mhajdik@colgateenergy.com

From: John Coffman <jcoffman@cimarex.com>
Sent: Tuesday, August 18, 2020 1:38 PM
To: Mark Hajdik <MHajdik@colgateenergy.com>
Subject: [EXTERNAL] Meridian Proposal

***** Attention: This is an external email, use caution. *****

Mark,

I just took over this proposal over here in our camp. Just had a quick question, are y'all planning on drilling just the N2N2 2 mile or are there any development plans for the S2N2 that might make this a N2 JOA? I know Mewbourne operates the S2N2 in Section 3. Just trying to get a feel of what your plans are in the area.

Thank you,

John Coffman



Landman
600 N. Marienfeld St., Suite 600
Midland, TX 79701
Direct: 432.571.7883
jcoffman@cimarex.com



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

**APPLICATION OF MAGNUM HUNTER PRODUCTION, INC.,
AFFILIATE OF CIMAREX ENERGY CO., TO REOPEN
COLGATE OPERATING, LLC'S POOLING CASE NO. 21629,
EDDY COUNTY, NEW MEXICO**

Reopen Case No. _____
Re: Case No. 21629; Order No. R-21575

APPLICATION TO REOPEN CASE

Magnum Hunter Production, Inc., an affiliate of Cimarex Energy Co. (collectively referred to herein as "Cimarex"), through its undersigned attorneys, hereby files its Application to Reopen Case No. 21629 in which Colgate Operating, LLC ("Colgate") sought a compulsory pooling order and operatorship from the Oil Conservation Division ("Division") for the N/2 N/2 of Sections 2 & 3, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico for the Bone Spring formation ("Subject Lands"). The basis of this application is that Colgate made certain material misrepresentations in its application and in its hearing exhibits that it introduced into the hearing of this case conducted before the Division on January 7, 2021, the most egregious being the representation that it sought to obtain a voluntary agreement from interest owners when, in fact, it failed to discuss any such agreement with Cimarex. Based on these defects, Cimarex contends that pursuant to NMAC 19.15.4.12 and Order Nos. R-20223 and R-21416-A, Colgate's notice was invalid, Colgate failed its obligation to make attempts to reach a voluntary agreement, and its hearing exhibits were fatally defective. Cimarex seeks relief in the form of reopening this Case to allow Cimarex to file its competing application to pool the Subject Lands that meets the regulatory

EXHIBIT
3

criteria for operations and development, including the prevention of waste and protection of correlative rights.

In support of its Application to Reopen, Cimarex states the following:

I. Procedural History and Background:

1. Cimarex received from Colgate a well proposal dated July 10, 2020, for the proposed development of the Meridian 3 Fed State Com 131H Well on the Subject Lands. This was one of 21 well proposals received from Colgate that year, and of the 21, Colgate has drilled two wells, the Dawson 31 Fed Com 124H and 134H Wells.

2. Upon its receipt, Cimarex reviewed the Meridian Well proposal and contacted Colgate on August 18, 2020, by email with a question:

Mark,
I just took over this proposal over here in our camp. Just a quick question, are y'all planning on drilling just the N2N2 mile or are there any development plans for the S2N2 that might make this a N2 JOA? I know Mewbourne operates the S2N2 in Section 3. Just trying to get a feel of what your plans are in the area.
Thank you,
John Coffman

Colgate responded August 31, 2020, to this inquiry, but never followed up with the information sought by Cimarex:

John,
As you probably noted, our operated strip is the N2N2, which abuts to several additional operated units in the section due north. Due to our consolidated operational efficiencies we would be happy to talk some options for the offsetting acreage in order to fully maximize the development of the area.
Thanks,
Mark

A copy of this email exchange is attached as Exhibit 1. Since Cimarex never provided the information requested, Cimarex filed the proposal with the other Colgate proposals that Cimarex had received.

3. Colgate decided to pool the Subject Lands for the proposed Meridian well, and on Christmas Eve, December 24, 2020, Magnum Hunter Production, Inc., an affiliate of Cimarex Energy Co., received Colgate's Notice Letter of the pooling hearing for January 7, 2020, which the law firm Modrall, Sperling, Roehl, Harris, & Sisk, P.A. ("Modrall") sent to Cimarex on behalf of Colgate.

4. However, under conditions of a renewed spike in the occurrence of COVID-19 infections, thus, stricter lockdown policies for the workplace, and in the midst of absences of support staff during the holiday, the Notice Letter was inadvertently misplaced and was not delivered to Cimarex's designated land team. Thus, the land team remained unaware of the hearing until after it was held, missing the opportunity to have filed an entry of appearance and competing application. Cimarex recognizes that the Notice Letter was sent within the prescribed time frame prior to the hearing date, and provides this explanation of how Cimarex missed notice of the hearing for the Division's consideration of why Cimarex failed to make an appearance. Had the circumstances of the Notice Letter's receipt been different, Cimarex's land team would have become aware of the hearing at the proper time and would have made a timely entry of appearance.

5. It was not until January 12, 2021, that Cimarex first realized that the hearing had already been held. Upon review of the testimony and exhibits submitted at the hearing, Cimarex found that Colgate had made a number of misrepresentations in its application and during the hearing and had introduced a number of irregularities. As a result, Cimarex requests that the Division reopen the case in order to determine the extent to which such misrepresentations have undermined and invalidated the merits of the proceedings.

II. Legal Arguments:

A. Colgate failed to make the necessary attempts to reach a voluntary agreement and failed to engage in good faith negotiations prior to the forced pooling.

6. Colgate's Landman falsely testified that its case "involves a request for an order from the Division for compulsory pooling of interest owners who have *refused* to voluntarily pool their interests...." Affidavit of Mark Hajdik, Exhibit B, ¶ 3 (emphasis added).¹ However, Colgate never made the prerequisite "attempts" to enter into a voluntary agreement with Cimarex and never made good-faith efforts to engage in any prior "negotiations" for that purpose. Therefore, Cimarex was never provided the opportunity to refuse or fail to enter a voluntary agreement, as is required under the pooling statutes and regulations before an application for a pooling hearing can be submitted and qualify for approval.

7. Colgate also represented to the Division, in its Communication Timeline, Exhibit B.3, that it had responded to various email questions from Cimarex from "August 2020 - January 2021." However, Colgate had responded only once by email to one question initiated by Cimarex, on August 31, 2020, and Colgate failed to follow up with any additional information that Cimarex requested, and did not make any attempt to reach an agreement from that point forward. *See* Exhibit 1. From the manner in which Colgate represented to the Division its communications with Cimarex, describing them as occurring over a six-month period, one would assume that the communications were ongoing or, at a minimum, there was some form of periodic communication

¹ *See also*, Colgate's Application at ¶ 6:

6. Colgate sought, but has been unable to obtain, a voluntary agreement from all interest owners in the Bone Spring formation underlying the proposed spacing unit to participate in the drilling of the well or to otherwise commit their interests to the well.

and correspondence between Colgate and Cimarex during these six months prior to the hearing; however, there was not. In reality, the only communication between the parties was Cimarex's email at the end of August, and Colgate's brief response, followed by five months of silence -- no correspondence, no phone calls, no delivery of a copy of the proposed operating agreement and no offer to discuss its terms.

8. For a pooling application to be valid on its merits, and to qualify for approval, it must be supported by "evidence of *attempts* the applicant made to gain voluntary agreement including but not limited to copies of relevant correspondence." NMAC 19.15.4.12A(b)(vi) (showing the minimum, barebones criteria that must be satisfied for approval of a pooling application) (emphasis added); *see also* Division Order No. R-20223 and Commission Order No. R-21416-A (both Orders showing that good-faith "negotiations" between parties prior to the applications to pool are among the essential criteria to be considered for approval of a pooling application). The Division should note that "attempts" in NMAC 19.15.4.12A(b)(vi) is plural, therefore, to satisfy these criteria, there should be a record that includes more than one attempt. Likewise, "negotiations" in Order Nos. R-20223 and R-21416-A is also plural, denoting the requirement of more than one attempt to negotiate.

9. Next to Colgate, which owned a 27% working interest in the proposed unit, Cimarex was the second largest working interest owner with 25%. Given this set of facts, Colgate's efforts to obtain working interest in the proposed unit by voluntary agreement should have placed a strong emphasis and priority on Cimarex. Yet, Colgate failed to make any attempts or efforts to negotiate a voluntary agreement with Cimarex and provided no evidence that it had done so except for its misrepresentations in Paragraph 6 of its Application, in the Affidavit of Mark Hajdik, Exhibit B, ¶ 3, and in its Communication Timeline.

10. At a minimum, to meet and satisfy the good-faith element of prior negotiations, both under the regulations and Division policy, an applicant must show a reasonable record of “attempts” and “prior negotiations,” which Colgate failed to do. Colgate’s single email to Cimarex is purely reactive and minimal at best, and not in any way proactive; it addresses only one question about the scope of the well proposal and makes no affirmative attempts to reach or negotiate a voluntary agreement.

B. Colgate’s pattern of misrepresentations extended to other parties involved in the pooling hearing, thereby undermining the integrity and merits of the adjudicatory process.

11. Colgate’s misrepresentation of its communications with another working interest owner in the case is also quite evident and well-documented. In its Communication Timeline, Colgate represents that it had various email exchanges from “July 2020 - January 2021” with the J.M. Welborn Trust (“Welborn Trust”). However, the Pre-hearing Statement filed by Prosperity Bank, as Trustee of the Welborn Trust, shows that communication efforts between Colgate and the Welborn Trust were initiated by Welborn Trust, not by Colgate, on July 16, 2020, with follow up emails on July 30 and August 19, 2020. *See* Prehearing Statement of Welborn Trust, attached hereto as Exhibit 2. According to its clear recounting of correspondence, the Welborn Trust shows that communication efforts did not extend past August 19, 2020; and yet, Colgate represents to the Division that email exchanges continued past August 19, through September, October, November, December and into January, 2021. The discrepancies between the Prehearing Statement of the Welborn Trust and Colgate’s Communication Timeline provides additional evidence of Colgate’s material misrepresentations during the hearing that the Division should review by reopening the case.

12. Furthermore, Modrall represented Colgate during the filing of Colgate's pooling application and its hearing on January 7, 2021. Colgate misrepresented to Modrall that Cimarex, who is also a client of Modrall for Division work, was not objecting to Colgate's proposal. When Cimarex found out that the hearing had already been conducted, it informed Modrall that Cimarex did not inform Colgate that it was not objecting to Colgate's Application. To its credit, upon receiving this information, Modrall immediately withdrew its representation of Colgate for any subsequent matters involving Case No. 21629. However, Colgate's misrepresentation to its own counsel regarding Colgate's communications with another working interest owner in the hearing, when it knew Cimarex was also a client of Modrall, is another example of the pattern of misrepresentations that Colgate engaged in connection with its Application and in its hearing exhibits.

13. Although Cimarex acknowledges that it misplaced the Notice Letter due to extenuating circumstances, the Division should note that if Colgate had made good-faith attempts to enter into an agreement or negotiations with Cimarex during the time period leading up to the hearing, Cimarex would have been fully aware of Colgate's pooling application and the hearing. Colgate represented to the Division that it had communicated with Cimarex during this time period, but it had not. Similarly, if Colgate had accurately communicated to Modrall that Cimarex had not yet taken a position on Colgate's Application, then Modrall would have requested a waiver from Cimarex in order to maintain representation, and again, upon such request, Cimarex would have become aware of the pooling application and hearing. Thus, although it sent out its Notice Letters within the prescribed time frame, Colgate nonetheless played an affirmative role through its failures and lack of communication in Cimarex's lack of awareness of the hearing.

WHEREFORE, Cimarex respectfully submits that, based on the foregoing, its Application to Reopen be set for hearing before an Examiner of the Oil Conservation Division on March 4, 2021, in order to determine, after proper notice, whether Colgate undermined the adjudicatory process through its patterns of misrepresentations to the extent that the pooling hearing held January 7, 2021, should be dismissed, and the Division require a re-hearing of the case on the merits which should include Cimarex's competing application, to be filed promptly by Cimarex; or if the Division decides that Colgate's case should not be dismissed, then in the alternative, Cimarex requests that Case No. 21629 be reopened and reviewed in order to find, under the circumstances, whether Cimarex's competing application should be heard and considered at this point in the proceedings.

Respectfully submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

Andrew D. Schill
William E. Zimsky
214 McKenzie Street
Santa Fe, New Mexico 87501
Telephone: 970.385.4401
Facsimile: 970.385.4901
darin@abadieschill.com
andrew@abadieschill.com
bill@abadieschill.com

**Attorneys for Cimarex Energy Co., and
Magnum Hunter Production, Inc., an affiliate of
Cimarex Energy**

Application of Magnum Hunter Production, Inc., an affiliate of Cimarex Energy Co., (“Cimarex”) to Reopen Case No. 21629, Eddy County, New Mexico. Applicant in the above-styled cause seeks to reopen Case No. 21629 in order to determine grounds for the introduction and submission by Applicant of a competing pooling application for the Bone Spring formation underlying N/2 N/2 of Sections 2 and 3, Township 20 South, Range 29 East, NMPM, Eddy County, New Mexico. The lands are located approximately 15.5 miles northeast of Carlsbad, New Mexico.

From: Mark Hajdik <MHajdik@colgateenergy.com>
Subject: [External] RE: Meridian Proposal
Date: August 31, 2020 at 9:28:14 PM MDT
To: John Coffman <jcoffman@cimarex.com>

WARNING: This email originated from outside of Cimarex Energy. Do not click links or open attachments unless you recognize the sender, are expecting the content and know it is safe.

John,

As you probably noted, our operated strip is the N2 N2, which abuts to several additional operated units in the section due north. Due to our consolidated operational efficiencies we would be happy to talk some options for the offsetting acreage in order to fully maximize the development of the area.

Thanks,
Mark

Mark Hajdik | Colgate Energy | Senior Landman
300 N. Marienfeld St. | Suite 1000 | Midland, TX 79701
O: (432) 257-3886 | C: (832) 904-6006
Email: mhajdik@colgateenergy.com

From: John Coffman <jcoffman@cimarex.com>
Sent: Tuesday, August 18, 2020 1:38 PM
To: Mark Hajdik <MHajdik@colgateenergy.com>
Subject: [EXTERNAL] Meridian Proposal

***** Attention: This is an external email, use caution. *****
Mark,

I just took over this proposal over here in our camp. Just had a quick question, are y'all planning on drilling just the N2N2 2 mile or are there any development plans for the S2N2 that might make this a N2 JOA? I know Mewbourne operates the S2N2 in Section 3. Just trying to get a



feel of what your plans are in the area.

Thank you,

John Coffman



Landman

600 N. Marienfeld St., Suite 600

Midland, TX 79701

Direct: 432.571.7883

jcoffman@cimarex.com

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

RECEIVED
JAN 11 2021
Initials

APPLICATION OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO

CASE NO. 21629

PRE-HEARING STATEMENT
OF
PROSPERITY BANK F/K/A AMERICAN STATE BANK
AS TRUSTEE OF THE J.M. WELBORN TRUST

Prosperity Bank f/k/a American State Bank, Trustee of the J.M. Welborn Trust ("Trustee") received a letter from Colgate dated July 10, 2020 notifying the Trustee of the proposed well and indicating that Colgate would be interested in acquiring the Trustee's interest. The Trustee contacted Colgate by e-mail on July 16, 2020. Follow-up e-mails were sent on July 30, 2020 and August 19, 2020. On the latter date, Colgate responded to the Trustee's inquiry. The Trustee sent another e-mail on August 19, 2020 notifying Colgate that the Trustee would be interested in an assignment of the interest held by the Trustee. Colgate promptly responded on the same date and notified the Trustee that there would be a meeting with management to "see what we can offer here." That was the last communication that the Trustee received from Colgate until a letter from Colgate's attorney regarding this Application and the hearing was received on December 21, 2020.

The Trustee has invested time and money in determining a market value for an assignment of the interest. The Trustee does not desire to participate in the well and wishes to reach an agreement with Colgate for an assignment of the interest at a market rate. In its Application, Colgate indicated that it "has been unable to obtain" a voluntary agreement from all interested owners. The Trustee has shown its willingness to assign its interest. Colgate indicated they would make an offer, but to date, an offer has not been received.

Respectfully submitted,

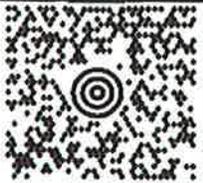
Prosperity Bank f/k/a American State Bank, Trustee
of the J.M. Welborn Trust

By: Brent McDonald
Brent McDonald
Senior Vice President
1401 Avenue Q
Lubbock, TX 79401
Telephone: 806.741.2371
brent.mcdonald@prosperitybankusa.com

EXHIBIT
2

https://www.ups.com/ship/create?ActionOriginPair=default___PrintWindowPage&key=labelWindow&type=html&loc=en_US&instr=A&doc=shipment_330369004:label0&CSRFToken=c5a9... 2/2

12/31/2020

BILLIE MCMINN 806-741-2370 PROSPERITY BANK 227 1401 AVENUE Q LUBBOCK TX 79401		0.2 LBS LTR	1 OF 1
SHIP TO: OIL CONSERVATION DIVISION DEPT. OF ENERGY, MINERALS, NAT. RES 1220 SOUTH ST., FRANCIS DRIVE SANTA FE NM 87505-4225			
	NM 875 0-03 		
UPS NEXT DAY AIR TRACKING #: 1Z F7F 455 01 9163 7794			1
			
BILLING: 3RD PARTY			
Reference # 1: 311 Reference # 2: J. M. Welborn		 TM <small>CS 22.0.12 WNTNVS0 39.0A 11/2020*</small>	

UPS CampusShip | UPS - United States

District I
 1625 N. French Dr., Hobbs, NM 88240
 Phone:(575) 393-6161 Fax:(575) 393-0720

District II
 811 S. First St., Artesia, NM 88210
 Phone:(575) 748-1283 Fax:(575) 748-9720

District III
 1000 Rio Brazos Rd., Aztec, NM 87410
 Phone:(505) 334-6178 Fax:(505) 334-6170

District IV
 1220 S. St Francis Dr., Santa Fe, NM 87505
 Phone:(505) 476-3470 Fax:(505) 476-3462

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

QUESTIONS

Action 81907

QUESTIONS

Operator: COLGATE OPERATING, LLC 300 North Marienfeld Street Midland, TX 79701	OGRID: 371449
	Action Number: 81907
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

QUESTIONS

Testimony	
<i>Please assist us by provide the following information about your testimony.</i>	
Number of witnesses	Not answered.
Testimony time (in minutes)	Not answered.