

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

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

**APPLICATION OF COLGATE OPERATING LLC
TO AMEND ORDER NO. R-21294, EDDY COUNTY,
NEW MEXICO.**

Case No. 21828

**APPLICATION OF COLGATE OPERATING LLC
TO RETROACTIVELY AMEND ORDER NO.
R-21226, EDDY COUNTY, NEW MEXICO.**

Case No. 21829

PRE-HEARING STATEMENT

This pre-hearing statement is submitted by Alpha Energy Partners, LLC (“Alpha”) as required by the Oil Conservation Division.

APPEARANCES

APPLICANT
Colgate Operating LLC

APPLICANT’S ATTORNEY
Modrall Sperling

OPPONENT
Alpha Energy Partners, LLC

OPPONENT’S ATTORNEYS
James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

STATEMENT OF THE CASE

APPLICANT

Order No. R-21294, dated April 28, 2020, pooled the N/2S/2 of Section 35 and the N/2S/2 of Section 36, Township 19 South, Range 29 East, NMPM, for the Silver Bar Fed. St. Com. Well No. 133H. Applicant seeks to amend the order to extend the well commencement deadline for one year.

Order No. R-21226, dated April 2, 2020, pooled the S2S/2 of Section 35 and the S/2S/2 of Section 36, Township 19 South, Range 29 East, NMPM, for the Silver Bar Fed. St. Com. Well No. 134H. Applicant seeks to amend the order to retroactively extend the well commencement deadline for one year, because the order will expire by its own terms on April 2nd.

OPPONENT

Alpha objects to the granting of these applications for the reasons stated below:

Alpha owns a significant working interest in the units pooled by the subject orders, as a successor to Foundation Energy _____ (“Foundation”), who was one of the working interest owners pooled by the orders. Alpha acquired this interest in late December 2020/early January 2021.

Colgate sent Foundation election letters under the orders on December 7, 2020. With Alpha’s agreement, Foundation elected to join in both wells. Alpha then commenced communicating with Colgate by e-mail and telephone.

- Alpha requested details as to when the wells would spud, and updated well costs (Colgate’s December 2019 AFEs, used at the original hearings, are for \$10.3MM/well, and costs have declined significantly since then.)
- Colgate would not provide information on when or if it planned on drilling the wells.
- Colgate refused to provide updated costs. (Colgate pooled another Bone Spring well in Case No. 21468 on January 21, 2021, and showed their 2-mile 3rd Bone Spring AFE cost for this area was \$5.5MM.)
- Alpha requested a JOA to sign, and stated it would participate under the JOA. Colgate refused to provide a JOA.
- Alpha proposed a trade to Colgate. Colgate did not provide feedback or a different trade proposal.
- Colgate agreed to an extension of the cash call due date of 30 days, and stated that the payment date was March 8, 2021.
- Alpha delivered a check to Colgate in the amount due based on the recent \$5.5MM AFE.
- Alpha has been in touch with other working interest owners, and understands that a cash call was only made on Foundation/Alpha.

Based on the forgoing, the orders should not be amended because that will enable Colgate to cash call and hold Alpha’s funds for up to a year longer, with no indication of a spud date. A pooling order should be on terms that are fair and reasonable. NMSA 1978 §70-2-

17.C.Under these circumstances, if either order is amended, it should contain a provision that an election notice cannot be sent more that 60 days before a well's spud date.

In addition, Order No. R-21226 will expire before the hearing date. Alpha submits that the Division does not have the statutory authority to bring an order back from the dead. Colgate has a remedy: It can re-file for pooling the S2S/2 of Section 35 and the S/2S/2 of Section 36.

PROPOSED EVIDENCE

APPLICANT

WITNESSES

EST. TIME

EXHIBITS

OPPONENT

WITNESSES

EST. TIME

EXHIBITS

Jared Forisha
(landman)


25 min.

Approx. 8

PROCEDURAL MATTERS

Alphaobjects to presentation of Colgate's cases by affidavit. Either the cases should be continued, or there should be a status conference on these cases on April 8th.

Respectfully submitted,



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jamesbruc@aol.com

Attorney for Alpha Energy Partners, LLC


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record this 1st day of ~~March~~ ^{April}, 2021 by e-mail:

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James Bruce