

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

**APPLICATIONS OF COLGATE OPERATING, LLC
FOR COMPULSORY POOLING, LEA COUNTY,
NEW MEXICO.**

Case Nos. 22861-22868

PRE-HEARING STATEMENT

Doyle and Margaret Hartman (Hartman) provide this Pre-Hearing Statement as required by Rule 19.15.4.13B NMAC. The issues in each of the above-referenced cases are identical with respect to the relief sought in the application and the basis for Hartman's opposition.

APPEARANCES

APPLICANT

Colgate Operating LLC

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OPPONENT

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OTHER PARTIES

None at this time.

STATEMENT OF THE CASES

Colgate has filed eight force pooling applications which are currently set for hearing on July 7, 2022. The applications seek to pool all uncommitted interests in horizontal spacing units comprised of Section 17 and 560 acres of section 20, Township 20 South, Range 34 East, Lea County, New Mexico. The properties consist of federal leases. The spacing units are to be dedicated to a total of twenty four (24) Robin Federal Com wells in the Wolfcamp (22861-65) and Bone Spring and Harkey formations (22866-68) Hartman owns interests in the acreage impacted by the applications.

There is a title dispute as to Hartman's interest. Hartman and various other parties (the Hartman and Hendrix Group) acquired record title and operating rights in the properties at issue from Sun Exploration and Production Co. in 1986. The properties involve federal leases numbers LC0029512A, LC0029512B, LC0029512C, and NMNM 013276. In April 2022, Colgate submitted to Hartman AFEs for the wells at issue here and a proposed JOA which identified Hartman as a working interest owner. Colgate served the force pooling applications on Hartman in mid-June, 2022. Hartman wrote Colgate on June 21, 2022 and offered to sell his interest on terms comparable to those paid to other members of the Hartman and Hendrix Group for their interest in the properties at issue.

Colgate responded claiming that Hartman had transferred his operating rights to Plantation Operating LLC and had retained only a 2% record title interest. Although not disclosed by Colgate, Colgate claims to own Hartman's working interest by virtue of an acquisition from a successor to Plantation.

Hartman wrote a second letter to Colgate dated June 22, 2022, documenting his ownership and pointing out that there was no transfer of operating rights in the 1200 acres

at issue here (leases 029512A and 013276) from Hartman to Plantation because those properties were not transferred to Plantation. BLM records show Hartman as the owner of record title and operating rights. Hartman has never assigned operating rights while retaining record title in these properties. Thus, if he retained record title he also retained operating rights. Hartman suggested that the force pooling applications should be continued until the title issue is resolved.

Colgate responded by letter of June 23, 2022, again claiming that Hartman owned no operating rights, only record title. It indicated a desire to proceed with the July 7 hearing. It suggested that any force pooling order would only affect Hartman's record title interest, and that it would agree to state in the hearing exhibits that no disputed working interest owned by Hartman would be force pooled. No resolution of the title issue has been reached as of the date of filing this Pre-Hearing Statement.

HARTMAN'S OBJECTIONS TO THE FORCE POOLING APPLICATIONS

Hartman contends the applications should be denied as having any force or effect on Hartman for the following reasons:

1. Hartman acquired both record title and operating rights in the subject properties in the Sun acquisition. The interests are interrelated. Hartman has never split those interests. Operating rights in federal leases are the rights relevant to drilling and producing wells. It makes no sense to force pool the record title interest while ignoring the operating rights.

2. Section 70-2-17(C) authorizes force pooling in order to pool all interests in the subject property for purposes of fully developing the minerals. The statute provides that a force pooling order must allocate production to the interest owners. It would be contrary to the language and intent of the statute to enter a force pooling order which

intentionally omits a portion of the working interest. Such an order is unworkable. Is Hartman to receive a share of revenue? How is the Hartman share of federal royalty to be paid? Under Colgate's proposal, Hartman would not be entitled to notice of AFEs as provided in the typical force pooling order and would not have the right to decide whether or not to participate before the well is drilled.

3. Hartman and Colgate have a dispute regarding the present ownership of the interests acquired by Hartman from Sun. That dispute can only be resolved by the courts, and that should be resolved before proceeding with the force pooling applications. It makes no sense to enter a force pooling order knowing it would be subject to amendment or modification if Hartman is successful in establishing his title. Since the Division is not empowered to resolve the ownership dispute, it should await that determination before proceeding.

4. Hartman opposes issuance of any force pooling order which would require that working interest owners pay their pro rata share for all wells up front without regard to when each well will be drilled. Hartman asks that any order allow for sequential payment by (a) requiring that Colgate submit AFEs for its wells no sooner than 60 days before the commencement of the drilling of each well and (b) allowing a working interest owner who decides to participate 30 days from receipt of the AFE to make payment.

5. Colgate cannot justify the proposed 200% risk penalty because there is little or no geologic risk in drilling the proposed wells. The Wolfcamp and Bone Spring formations are established resource plays.

6. In the event the Division decides to issue a force pooling order in these cases, Hartman requests that the Order (a) expressly recognize the title dispute, (b)

expressly provide that any working interest owned by Hartman is not being force pooled, and (c) expressly provide a procedure for re-opening the cases for purposes of amending or modifying the order to accommodate any final title determination.

PROPOSED EVIDENCE

WITNESSES	EST. TIME	EXHIBITS
Bryan Jones-landman	30 min.	5 approx.

PROCEDURAL ISSUES

Hartman requests that the Division continue these cases pending resolution of the title dispute. Hartman has objected to having these cases presented and decided by affidavit.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By /s/ J.E. Gallegos

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail this 30th day of June, 2022.

/s/ J.E. Gallegos
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