

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

RECEIVED

**IN THE MATTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION DIVISION TO  
CONSIDER THE APPLICATION OF:**

FEB 1 1987

OIL CONSERVATION DIVISION

**DOYLE HARTMAN FOR COMPULSORY POOLING,  
LEA COUNTY, BEING REOPENED UPON THE  
APPLICATION OF HOWARD OLSEN TO RECONSIDER  
THE PROVISIONS OF DIVISION ORDER NO. R-8031**

**CASE NO. 8668 (Reopened)  
ORDER NO. R-8031-A**

**APPLICATION FOR HEARING DE NOVO**

Doyle Hartman, Oil Operator, a party of record adversely affected by the decision of the Oil Conservation Division herein in the above-referenced Order No. R-8031-A, hereby applies for a hearing De Novo before the full Commission, pursuant to N.M.S.A. 1978 §70-2-13 (1987 Repl. Pamp.).

Respectfully submitted,

GALLEGOS LAW FIRM

By 

JOANNE REUTER

141 East Palace Avenue  
Santa Fe, New Mexico 87501  
(505) 983-6686

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Application for Hearing De Novo was served via U.S. Mail this 1st day of February, 1991 to T. Calder Ezzell, Jr., Hinkle, Cox, Eaton, Coffield & Hensley, P.O. Box 10, Roswell, New Mexico 88201, Attorney for Howard Olsen.



JOANNE REUTER

# GALLEGOS LAW FIRM

A Professional Corporation

141 East Palace Avenue  
Santa Fe, New Mexico 87501  
Telephone No. 505 • 983 • 6686  
Telefax No. 505 • 986 • 0741

J.E. GALLEGOS

March 18, 1991

Our File No. 87-1.3

**VIA HAND DELIVERY**

William J. LeMay, Director  
Oil Conservation Division  
Energy, Minerals & Natural Resources Department  
State Land Office Building  
Old Santa Fe Trail  
Santa Fe, New Mexico 87504

RECEIVED  
MAR 18 1991  
OIL CONSERVATION DIVISION

RE: Application of Howard Olson to Reopen NMOCD Case Nos.  
8668 and 8769 -- DeNovo

Dear Director LeMay:

Enclosed please find for filing in this proceeding the Reply Memorandum of Doyle Hartman in Support of Dismissal of the Applications. This transmittal also provides four copies for the convenience of distribution to all members of the Oil Conservation Commission and its legal counsel.

We appreciate your cooperation in the handling of this matter.

Sincerely,

GALLEGOS LAW FIRM

By   
J. E. GALLEGOS

JEG:ca  
Enclosures

cc: William F. Carr, Esq.  
T. Calder Ezzell, Jr., Esq.  
Doyle Hartman

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

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CONSIDERING:**

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OF HOWARD OLSEN TO RECONSIDER  
THE PROVISIONS OF DIVISION ORDER NO. R-8031**

**RECEIVED**

FEB 25 1991

OIL CONSERVATION DIV.  
SANTA FE

**PRE-HEARING STATEMENT**

This prehearing statement is submitted by Doyle Hartman as required by the

Oil Conservation Division.

**APPEARANCES OF PARTIES**

**APPLICANT**

Howard Olsen  
Phoenix, Arizona

**ATTORNEY**

T. Calder Ezzell, Jr., Esq.  
Hinkle, Cox, Eaton,  
Coffield & Hensley  
P.O. Box 10  
Roswell, New Mexico 88201

**OPPOSITION OR OTHER PARTY**

Doyle Hartman, Oil Operator  
500 North Main  
Midland, Texas 79701  
(915) 684-4011

**ATTORNEY**

J.E. Gallegos, Esq.  
Gallegos Law Firm  
141 East Palace Avenue  
Santa Fe, New Mexico 87501  
(505) 983-6686

## **STATEMENT OF CASE**

### **APPLICANT**

Doyle Hartman applied in 1985 in Case No. 8668 to force pool certain mineral interests in Lea County New Mexico. The Division on September 27, 1985 granted his application by Order No. R-8031. Two years later, Howard Olsen, an owner of one of the force pooled mineral interests who neither appeared nor objected in the initial force pooling proceedings, filed an application to reopen the proceeding on August 17, 1987. Olsen seeks a reopening of the proceeding to determine whether Hartman complied with the requirements of Order No. R-8031, or alternatively seeks that Order No. R-8031 be rescinded. Specifically, Olsen claims that he did not receive an itemized schedule of estimated well costs prior to commencement of or after completion of the well drilled pursuant to the Division's force pooling Order.

### **OPPOSITION OR OTHER PARTY**

As more fully set forth in Doyle Hartman's Response to Application and Motion to Dismiss, filed with the Division on June 16, 1989 and attached hereto and incorporated by reference, it is Hartman's position that he has complied with the terms of Division Order No. 8031 and has provided all necessary and substantial information on drilling costs to Olsen, that Olsen's application should be dismissed and that Olsen must abide by the terms of Order No. 8031, including payment of his share of drilling costs subject to the 200% nonconsent penalty included therein.

An Examiner Hearing was held on Olsen's application to reopen on September 6, 1989. Olsen did not challenge the reasonableness of well costs at the hearing. The Examiner issued Order No. R-8031-A on January 8, 1991. Although the Examiner Ordered that Order No. R-8031 should remain in full force and effect and that the well costs incurred by Hartman were reasonable, Olsen was allowed 30 days from the entry of the 1991 Order to elect to participate in the well by payment of his share of well costs with interest. Upon such election, Hartman is required by Order No. R-8031-A to pay Olsen proceeds from production attributable to Olsen's interest, with interest on such proceeds from date of their receipt by Hartman. Hartman, therefore, seeks a hearing de novo.<sup>1</sup>

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<sup>1</sup> The de novo hearing in this case is scheduled at the same time as a de novo hearing in the companion Case No. 8769 on Order No. R-8091-A, where the issues and evidence to be presented are identical but relate to a different pooled unit and different well.

**PROPOSED EVIDENCE**

**OPPOSITION**

<b><u>WITNESS</u></b>	<b><u>EST TIME</u></b>	<b><u>EXHIBITS</u></b>
<b><u>Howard Olsen</u></b> (By Deposition) Prior compulsory pooling proceedings, negotiations and agreement to sell properties to D. Hartman	30 minutes	13
<b><u>Doyle Hartman</u></b> Prior compulsory pooling pooling hearings, notifications to H. Olsen, negotiations and agreements to purchase H. Olsen's interests.	30 minutes	19
<b><u>William Aycock</u></b> Prior pooling hearings	10 minutes	None
<b><u>Lisa Woodward</u></b> Well revenues and expenses and allocation among working interest owners.	10 minutes	None
<b><u>Garold Bowlby</u></b> (By deposition) H. Olsen review of expense and revenue records.	30 minutes	None

**PROCEDURAL MATTERS**

Hartman's Motion to Dismiss is hereby expressly renewed before the Commission.

GALLEGOS LAW FIRM

By   
J.E. GALLEGOS  
JOANNE REUTER

141 East Palace Avenue  
Santa Fe, New Mexico 87501  
(505) 983-6686

ATTORNEYS FOR  
DOYLE HARTMAN, OIL OPERATOR

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

**IN THE MATTER OF THE  
APPLICATION OF HOWARD OLSEN  
TO REOPEN CASE NOS. 8668  
AND 8769, LEA COUNTY, NEW MEXICO**

**RESPONSE TO APPLICATION  
AND MOTION TO DISMISS**

RECEIVED  
JUN 16 1989  
OIL CONSERVATION DIVISION

DOYLE HARTMAN ("Hartman") hereby submits this Response to the captioned Application filed by Howard Olsen ("Olsen"). While Olsen asks the Oil Conservation Division ("Division") to reopen the earlier proceedings, in reality Olsen seeks to avoid the nonconsent penalties imposed upon him by Order Nos. 8668 and 8769. Hartman hereby moves the Division to dismiss the Application for the following reasons:

1. After proper notice and hearing, Order Nos. 8668 and 8769 were duly entered by the Division on September 27 and December 6, 1985, respectively. Olsen did not timely request a rehearing, but instead instituted this Cause approximately two years later seeking to overturn the action of the Division. Olsen may not now collaterally attack those Orders.

2. Olsen initiated this Cause in September of 1987. On April 15, 1989, the OCD notified Olsen's counsel that this Application would be scheduled for hearing and dismissed. Olsen's attorney requested a further continuance. Olsen has utterly failed to prosecute this Cause with due diligence and is prolonging the administrative process in an attempt to subvert a judicial resolution of other legal disputes with Hartman.

3. At the same time Hartman sought the compulsory pooling Orders attacked herein, he was negotiating with Olsen and arrived at an agreement for the purchase of



Olsen's interest. Hartman relied upon Olsen's agreement to sell his interest, but Olsen later reneged on that agreement. Olsen is equitably estopped from asserting any technical noncompliance with the provisions of Order Nos. 8668 and 8769.

4. Hartman drilled the wells authorized by the Orders at issue, undertaking all the financial risks and managerial responsibility for the benefit of the interest owners within the pooled lands. Hartman conscientiously complied with the terms and conditions imposed by Order Nos. 8668 and 8769. The policy underlying the conservation laws mandates that Olsen also abide by the terms of those Orders, including the payment of his share of drilling costs subject to the nonconsent penalty.

WHEREFORE, Hartman requests this Motion be set for hearing on the Division's docket for July 12, 1989, and the Division dismiss the Application for the foregoing reasons.

Respectfully submitted,

By Harry T. Nutter  
J.E. GALLEGOS  
HARRY T. NUTTER  
300 Paseo De Peralta  
Suite 100  
Santa Fe, New Mexico 87501  
(505) 983-6686

Attorneys for Respondent  
Doyle Hartman

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response was served on this 16th day of June, 1989, to all counsel of record.

Harry T. Nutter  
HARRY T. NUTTER

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

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DOYLE HARTMAN, OIL OPERATOR

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Attorneys for Respondent  
Doyle Hartman

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