

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

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22277
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23149
ORDER NO. R-22277**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22278
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23150
ORDER NO. R-22278**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22279
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23151
ORDER NO. R-22279**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22280
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23152
ORDER NO. R-22280**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22281
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23153
ORDER NO. R-22281**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22282
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23154
ORDER NO. R-22282**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22283
LEA COUNTY, NEW MEXICO**

**CASE NO. 23155
ORDER NO. R-22283**

**APPLICATION OF COLGATE OPERATING,
LLC, TO POOL ADDITIONAL INTERESTS,
UNDER ORDER NO. R-22284
LEA COUNTY, NEW MEXICO.**

**CASE NO. 23156
ORDER NO. R-22284**

**COLGATE OPERATING, LLC'S OBJECTIONS TO
DOYLE AND MARGARET HARTMAN'S TESTIMONY AND EXHIBITS**

In accordance with the Pre-Hearing Order, Colgate Operating, LLC ("Colgate" or "Applicant") submits the following objections to Doyle and Margaret Hartman's ("Hartman") proposed testimony and exhibits.

1. Colgate proposes to fully develop the Bone Spring and Wolfcamp formations underlying Sections 18 and 19, Township 20 South, Range 34 East in Lea County by drilling and completing 24 wells.

2. Doyle Hartman ("Hartman") is named as an owner of a 2% record title interest in the federal leases at issue and has refused to sign a communitization agreement. As a result, Colgate seeks to pool his record title interest solely for the purpose of complying with the BLMS's communitization requirements.

3. As discussed below, Hartman's proposed testimony and exhibits should be excluded because they have no bearing on the pooling of Hartman's record title interest, and specifically, whether the pooling of that interest impairs correlative rights or results in the waste of oil and gas. The proposed testimony and exhibits should also be excluded on the basis that they confuse the true issue before the Division and will result in a waste of time and the presentation of cumulative evidence. *See* 19.15.4.17 NMAC ("[t]he rules of evidence applicable in a trial before a court without a jury shall not control, but division examiners and the commission may use such rules as guidance in conducting adjudicatory hearings."); Rule 11-403 NMRA (relevant evidence may be excluded if "its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues...or by considerations of undue delay, waste of time or needless presentation of cumulative evidence.").

- a) The testimony of Hartman's land witness, Bryan Jones, should be excluded because it is not relevant to the pooling of Hartman's record title interest.

Mr. Jones states in his affidavit that he "was focused upon conveyances into Doyle Hartman from Sun Operating Limited Partnership and out of Doyle Hartman, if any, to any third party for the period from 1980 through present..." and "[b]ased upon [his] examination of the subject Federal oil and gas lease files, it appears Doyle Hartman currently owns both Record Title and Operating Rights" in the tracts at issue. Mr. Jones should be excluded as a witness because his opinion on transfer of record title and working interests is not relevant to any fact at issue in these matters. In fact, Mr. Jones' opinion only highlights the fact that Hartman is attempting to present a quiet title action in this hearing before the Division. Hartman has not presented any competing applications to Colgate's Batman development. Mr. Jones' affidavits and exhibits do not offer any opinion on why he believes pooling Hartman's record title interest would violate Hartman's correlative rights or result in waste, which are the only matters at issue with respect to the approval of Colgate's applications. *See* NMSA 1978, § 70-2-11. Because Mr. Jones' opinions are not relevant to the matter at hand, his testimony should be excluded.

- b) Hartman Exhibit 1-A – Affidavit of Bryan Jones

Hartman's land expert proposes to testify that Hartman owns both a record title interest and working interest in the wells at issue. Hartman's claimed working interest is not at issue in these cases and is not relevant to any fact at issue because any such interest is not being pooled. *See Wilson v. Hayner*, 1982-NMCA-120, ¶ 5, 98 N.M. 514 ("Whatever naturally and logically tends to establish a fact at issue is relevant."). Accordingly, any testimony and exhibits and testimony regarding Hartman's alleged working interest are irrelevant and inadmissible.

- c) Hartman Exhibit 2-A – Chart of “Hartman Retained Acreage in Sections 17, 18, 19 and 20, Township 20 South, Range 34 East, Lea County New Mexico.”

Colgate objects to Exhibit 2-A on authenticity and relevancy grounds. Exhibit 2-A is not relevant to any fact at issue in the cases before the Division because Hartman’s working interest is not being pooled. Further, it is unclear who prepared the exhibit and whether it is accurate. Exhibit 2-A should be stricken because it is not self-authenticating and Hartman does not appear to have the author or anyone else to testify as to the authenticity of this document.

- d) Hartman Exhibit 3-A – “Schedule of Colgate Force Pooling Cases”

Exhibit 3-A contains information concerning the pooling of the Robin wells, which is irrelevant to the matters currently before the Division.

- e) Hartman Exhibits 4-A and 5-A –Joint Operating Agreements

As explained above, in Colgate’s Motion to Quash Subpoena, and Colgate’s Pre-Hearing Statement, the joint operating agreements relied upon by Hartman address his claimed working interest and are irrelevant and immaterial to the pooling of Hartman’s record title interest. Hartman’s record title interest is being pooled for the sole purpose of obtaining a communitization agreement from the BLM, and the agreements have no relevance to that issue.

For the reasons set out above, Colgate requests that the Division preclude Hartman from introducing into evidence Mr. Jones’s testimony and Exhibits 1-A, 2-A, 3-A, 4-A, and 5-A.

Respectfully submitted,

HINKLE SHANOR, LLP

/s/ Dana S. Hardy

Dana S. Hardy
Jaclyn McLean
Yarithza Peña
P.O. Box 2068
Santa Fe, NM 87504-2068
Phone: (505) 982-4554
Facsimile: (505) 982-8623
dhardy@hinklelawfirm.com
jmclean@hinklelawfirm.com
ypena@hinklelawfirm.com
Counsel for Colgate Operating, LLC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was sent to the following counsel of record by electronic mail on this 13th day of December, 2022.

Gene Gallegos –jeg@gallegoslawfirm.net

Michael Condon – mjc@gallegoslawfirm.net

Dana S. Hardy