

**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. 23149-56

ENTRY OF APPEARANCE AND PRE-HEARING STATEMENT

Doyle and Margaret Hartman ("Hartman"), by and through undersigned counsel, hereby enter their appearance in these cases. Hartman objects to presentation of these cases by affidavit under Rule 19.15.4.12(A)(1)(b).

Hartman provides 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 cases seeking to amend force pooling orders that were entered on September 26, 2022 in OCD cases 22788-95. The orders are R-22277, 22278, 22279, 22280, 22281, 22282, 22283 and 22284 ("Prior orders"). The Prior orders pooled uncommitted interests in horizontal spacing units comprised of Section 18 and 19, Township 20 South, Range 34 East, Lea County, New Mexico. The properties consist of federal leases. The lands in issue are located in the Potash Area administered by the Bureau of Land Management (BLM). The spacing units are to be dedicated to twenty-four (24) Batman wells in the Wolfcamp and Bone Spring formations.

Hartman owns interests in the acreage affected by the applications and owned his interests when Colgate filed its applications in cases 22788-95 in April 2022. Colgate communicated with Hartman as an "Affected Operator/Lessee/WI Owner" beginning in February 2022 regarding development of the acreage at issue. Hartman's interest in the federal leases covering the subject lands was expressly listed and recognized in the Colgate hearing Exhibits A-3 for the June 2, 2022, hearings. Though Colgate was aware of Hartman's ownership at all material times, it purposely failed to provide Hartman with notice of the applications in cases 22788-95

Colgate represents that these applications are filed ostensibly “for the limited purpose of pooling additional uncommitted interests” under the terms of the orders in OCD cases 22788-95. Colgate claims that since the orders were entered on September 26, 2022, it “has identified additional interests in the Unit that have not been pooled under the terms of the Order.” The Hartman interests are apparently among the alleged “additional interests.” Colgate has represented it seeks to add Hartman as a party based only on record title ownership.

Colgate is not being honest with the Division. Colgate was well aware of Hartman’s interest in the affected acreage when it filed its applications in cases 22788-95, when it went to hearing on June 2, 2022, and at all times prior to the entry of the Prior orders on September 26, 2022. It offers no excuse as to why Hartman was not notified of the force pooling applications in cases 22788-95.

HARTMAN’S OBJECTIONS TO THE APPLICATIONS

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

1. The OCD Prior orders Colgate seeks to amend (R-22277-22284) were entered improvidently and in violation of Hartman’s due process rights and rights to notice under 19.15.4.12 NMAC. Colgate failed to give notice to Hartman of the applications for the Batman wells even though it was aware of Hartman’s interests. Colgate misrepresented to the OCD in those cases that it had made a good faith effort to contact all interest owners and that notice was given. The OCD should withdraw those Prior orders.

2. Hartman has seen evidence that the lands that are the subject of Colgate’s force pooling applications may be subject to a valid operating agreement. Hartman is

attempting to locate a copy of the operative agreement. If there is a valid operating agreement that covers the lands at issue, force pooling is unavailable under NMSA 1978 § 70-2-17.

3. Drilling of the proposed wells cannot proceed until Colgate has received approval by the BLM of a Development Area, one or more Drilling Islands and an APD. Each of those steps requires notice to Hartman as an affected party. Colgate has not provided all required notices.

4. Colgate has refused to acknowledge Hartman's working interest in the affected acreage. 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, LC029512C, and NMNM 013276. Colgate claims it now owns those interests. However, 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. It makes no sense to force pool the record title interest while ignoring Hartman's operating rights.

5. The title dispute can only be resolved by the courts. That litigation should be concluded, and the force pooling applications and the resulting Prior orders should be stayed. It is administratively inefficient and imprudent to allow operations under the force pooling order knowing the rights and obligations of the owners will be subject to modification if Hartman prevails. Since the Division is not empowered to resolve the ownership dispute, it should await that determination before proceeding.

6. 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 proportionally 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? Bear a share of the cost? How is the Hartman share of federal royalty to be paid? Under Colgate's approach Hartman would not be entitled to approval or disapproval of AFEs as provided in the typical force pooling order and would not have the right to decide whether or not to participate before a well is drilled.

7. Hartman further 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.

8. Colgate cannot justify the proposed 200% risk penalty because there is little or no geologic risk in drilling the proposed wells. The target Wolfcamp and Bone Spring formations are established resource plays. The fact that Colgate plans to drill 24 wells is evidence that Colgate sees little to no risk in the project. Colgate, as the party advocating for a 200% risk penalty, should bear the burden to establish the basis for the request.

9. In the event the Division decides to issue an order amending force pooling orders 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	45 min.	10 approx.
Mike Stewart-Engineer	30 min.	5 approx.

PROCEDURAL ISSUES

Hartman requests that the Division withdraw the Prior orders and 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 27 day of October, 2022.

/s/ J.E. Gallegos
J.E. Gallegos