

**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

MOTION TO DISMISS

Doyle and Margaret Hartman (“Hartman”) request that the Division dismiss these applications on two jurisdictional grounds. Hartman would show as follows:

1. Colgate seeks in these cases to force pool Hartman’s record title interest in sections 17, 18, 19 and 20 in Township 20 South, Range 34 East, Lea County, New Mexico. The acreage is subject to federal leases NMNM 013276, NMLC 0029512A and NMLC 0029512B, which are in the Potash area.

2. Colgate asks the Division to pool Hartman’s record title interest pursuant to the terms of Division Orders entered September 26, 2022. Those orders were entered based on Colgate’s representation that it has the right to drill on the lands at issue. The Division expressly concluded that Colgate has the right to drill. See Orders R-22277, 22278, 22279, 22280, 22281, 22282, 22283 and 22284 (“Prior orders”), Conclusions of Law, ¶ 10.

3. Colgate’s interest in these leases is based on an assignment from OXY USA, Inc. and an assignment from Davis Land and Minerals, Inc. The OXY to Colgate Transfers of Operating Rights and Record Title have been filed at the BLM but have not yet been approved. See Colgate Exhibit A-14, filed January 12, 2023. The Davis to Colgate transfer of operating rights has not been filed with the BLM and has not yet been

approved. The Davis to Colgate assignment involves the interest claimed by Hartman which is in dispute.

4. Absent BLM approval of the transfers upon which Colgate relies, Colgate presently has no right to drill on the federal leases. *River Gas Corp. v. Pullman*, 960 F.Supp. 264, 266. (D. Utah 1997) (a party must receive approval of the Secretary of Interior for an assignment of a government lease to be valid citing 30 U.S.C. § 187(a)); *Geosearch, Inc. v. Andrus*, 508 F.Supp.839, 847 (D. Wyo. 1981) (assignment of any interest in a federal oil and gas lease an offeror may hold is ineffective until approved by the BLM).

5. Hartman has previously argued that the lands that are the subject of Colgate's force pooling applications are subject to a valid operating agreement. See Hartman Response to Colgate Motion to Strike, filed November 21, 2022, p. 5. Because a valid operating agreement covers all of sections 17-20, and because the only lands at issue in Colgate's applications are wholly within sections 17-20, force pooling is unavailable under NMSA 1978 § 70-2-17. *Application of Hartman*, OCD Case No. 8606, Order No. R-8013.

6. Because Colgate seeks to have Hartman's record title interest pooled pursuant to the Prior Orders, Hartman has the right to contest the validity of such force pooling orders.

Hartman respectfully requests that the Division dismiss these applications based upon the lack of BLM approval of the transfers upon which Colgate relies and based on Colgate's failure to establish that the lands at issue are not already subject to an agreement by the owners to pool their interests.

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 17th day of January, 2023.

/s/ J.E. Gallegos

J.E. Gallegos