

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

**IN THE MATTER OF APPLICATION FOR  
COMPULSORY POOLING SUBMITTED BY  
COLGATE OPERATING, LLC**

**CASE NO. 21226  
ORDER NO. R-21354**

**ORDER**

The Director of the New Mexico Oil Conservation Division (“OCD”), having heard this matter through a Hearing Examiner on May 28, 2020, and after considering the testimony, evidence, and recommendation of the Hearing Examiner, issues the following Order.

**FINDINGS OF FACT**

1. Colgate Operating, LLC (“Operator”) submitted an application (“Application”) to compulsory pool the uncommitted oil and gas interests within the spacing unit (“Unit”) described in Exhibit A. The Unit is expected to be a standard horizontal spacing unit. 19.15.16.15(B) NMAC. Operator seeks to be designated the operator of the Unit.
2. Operator will dedicate the well(s) described in Exhibit A (“Well(s)”) to the Unit.
3. Operator proposes the supervision and risk charges for the Well(s) described in Exhibit A.
4. Operator identified the owners of uncommitted interests in oil and gas minerals in the Unit and provided evidence that notice was given.
5. The Application was heard by the Hearing Examiner on the date specified above, during which Operator presented evidence through affidavits in support of the Application. No other party presented evidence at the hearing.

## **CONCLUSIONS OF LAW**

6. OCD has jurisdiction to issue this Order pursuant to NMSA 1978, Section 70-2-17.
7. Operator is the owner of an oil and gas working interest within the Unit.
8. Operator satisfied the notice requirements for the Application and the hearing as required by 19.15.4.12 NMAC.
9. OCD satisfied the notice requirements for the hearing as required by 19.15.4.9 NMAC.
10. Operator has the right to drill the Well(s) to a common source of supply at the described depth(s) and location(s) in the Unit.
11. The Unit contains separately owned uncommitted interests in oil and gas minerals.
12. Some of the owners of the uncommitted interests have not agreed to commit their interests to the Unit.
13. The pooling of uncommitted interests in the Unit will prevent waste and protect correlative rights, including the drilling of unnecessary wells.
14. This Order affords to the owner of an uncommitted interest the opportunity to produce his just and equitable share of the oil or gas in the pool.

## **ORDER**

15. The uncommitted interests in the Unit are pooled as set forth in Exhibit A.
16. The Unit shall be dedicated to the Well(s) set forth in Exhibit A.
17. Operator is designated as operator of the Unit and the Well(s).
18. If the Surface Location or Bottom Hole Location of a well is changed from the location described in Exhibit A, Operator shall submit an amended Exhibit A, which the Division shall append to this Order.
19. If the location of a well will be unorthodox under the spacing rules in effect at the time of completion, Operator shall obtain the OCD's approval for a non-standard location before commencing production of the well.

20. The Operator shall commence drilling the initial well within one (1) year after the date of this Order; and (b) for an infill well, no later than thirty (30) days after completion of the well.
21. Operator shall comply with the infill well requirements in 19.15.13.9 NMAC through 19.15.13.12 NMAC.
22. This Order shall terminate automatically if Operator fails to comply with Paragraphs 20 or 21.
23. Operator shall submit to OCD and each owner of a working interest in the pool ("Pooled Working Interest") an itemized schedule of estimated costs to drill, complete, and equip the well ("Estimated Well Costs") no later than: (a) for an initial well, no later than thirty (30) days after the date of this Order; (b) for an infill well proposed by Operator, no later than (30) days after the later of the initial notice period pursuant to 19.15.13.10(B) NMAC or the extension granted by the OCD Director pursuant 19.15.13.10(D) NMAC; or (c) for an infill well proposed by an owner of a Pooled Working Interest, no later than thirty (30) days after expiration of the last action required by 19.15.13.11 NMAC.
24. No later than thirty (30) days after Operator submits the Estimated Well Costs , the owner of a Pooled Working Interest shall elect whether to pay its share of the Estimated Well Costs or its share of the actual costs to drill, complete and equip the well ("Actual Well Costs") out of production from the well. An owner of a Pooled Working Interest who elects to pay its share of the Estimated Well Costs shall render payment to Operator no later than thirty (30) days after the expiration of the election period, and shall be liable for operating costs, but not risk charges, for the well. An owner of a Pooled Working Interest who fails to pay its share of the Estimated Well Costs or who elects to pay its share of the Actual Well Costs out of production from the well shall be considered to be a "Non-Consenting Pooled Working Interest."
25. No later than within one hundred eighty (180) days after Operator submits a Form C-105 for a well, Operator shall submit to OCD and each owner of a Pooled Working Interest an itemized schedule of the Actual Well Costs. The Actual Well Costs shall be considered to be the Reasonable Well Costs unless OCD or an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If OCD or an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Reasonable Well Costs after public notice and hearing.
26. No later than sixty (60) days after the later of the expiration of the period to file a written objection to the Actual Well Costs or OCD's order determining the Reasonable Well Costs, each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs shall pay to Operator its share of the Reasonable Well

Costs that exceed the Estimated Well Costs, or Operator shall pay to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs its share of the Estimated Well Costs that exceed the Reasonable Well Costs.

27. The reasonable charges for supervision to drill and produce a well ("Supervision Charges") shall not exceed the rates specified in Exhibit A, provided however that the rates shall be adjusted annually pursuant to the COPAS form entitled "Accounting Procedure-Joint Operations."
28. No later than within ninety (90) days after Operator submits a Form C-105 for a well, Operator shall submit to OCD and each owner of a Pooled Working Interest an itemized schedule of the reasonable charges for operating and maintaining the well ("Operating Charges"), provided however that Operating Charges shall not include the Reasonable Well Costs or Supervision Charges. The Operating Charges shall be considered final unless OCD or an owner of a Pooled Working Interest files a written objection no later than forty-five (45) days after receipt of the schedule. If OCD or an owner of a Pooled Working Interest files a timely written objection, OCD shall determine the Operating Charges after public notice and hearing.
29. Operator may withhold the following costs and charges from the share of production due to each owner of a Pooled Working Interest who paid its share of the Estimated Well Costs: (a) the proportionate share of the Supervision Charges; and (b) the proportionate share of the Operating Charges.
30. Operator may withhold the following costs and charges from the share of production due to each owner of a Non-Consenting Pooled Working Interest: (a) the proportionate share of the Reasonable Well Costs; (b) the proportionate share of the Supervision and Operating Charges; and (c) the percentage of the Reasonable Well Costs specified as the charge for risk described in Exhibit A.
31. Each year on the anniversary of this Order, and no later than ninety (90) days after each payout, Operator shall provide to OCD and each owner of a Non-Consenting Pooled Working Interest a schedule of the revenue attributable to a well and the Supervision and Operating Costs charged against that revenue.
32. Any cost or charge that is paid out of production shall be withheld only from the share due to an owner of a Pooled Working Interest. No cost or charge shall be withheld from the share due to an owner of a royalty interests. For the purpose of this Order, an unleased mineral interest shall consist of a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest.
33. Except as provided above, Operator shall hold the revenue attributable to a well that is not disbursed for any reason for the account of the person(s) entitled to the

revenue as provided in the Oil and Gas Proceeds Payment Act, NMSA 1978, Sections 70-10-1 *et seq.*, and relinquish such revenue as provided in the Uniform Unclaimed Property Act, NMSA 1978, Sections 7-8A-1 *et seq.*

34. The Unit shall terminate if (a) the owners of all Pooled Working Interests reach a voluntary agreement; or (b) the well(s) drilled on the Unit are plugged and abandoned in accordance with the applicable rules. Operator shall inform OCD no later than thirty (30) days after such occurrence.
35. OCD retains jurisdiction of this matter for the entry of such orders as may be deemed necessary.

**STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION**




**ADRIENNE SANDOVAL  
DIRECTOR**

AS/tgw

**Date:** 6/10/2020

## Exhibit A

COMPULSORY POOLING APPLICATION CHECKLIST	
ALL INFORMATION IN THE APPLICATION MUST BE SUPPORTED BY SIGNED AFFIDAVITS	
Case: 21226	Applicant's Response
<b>Date May 28, 2020</b>	
Applicant	Colgate Operating, LLC
Designated Operator & OGRID (affiliation if applicable)	371449
Applicant's Counsel	Ernest L. Padilla
Case Title:	Application of Colgate Operating, LLC, Case No. 21226 for compulsory pooling, and non-standard spacing and
	proration unit, Eddy County, New Mexico
Entries of Appearance/Intervenors	Modrall-Lance D. Hough for EOG & James Bruce for Mewbourne
Well Family	Dawson 34 Fed State Com
<b>Formation/Pool</b>	
Formation Name(s) or Verticle Extent	Winchester, Bone Spring
Primary Product (Oil or Gas)	oil
Pooling this verticle extent	Bone Spring Formation
Pool Name and Pool Code	Winchester, Bone Spring (Pool code 65010)
Well Location Setback Rules	Standard
Spacing Unit Size	320 ac
<b>Spacing Unit</b>	
Type (Horizontal/Verticle)	Horizontal
Size (acres)	320
Building Blocks	quarter-quarter sections
Orientation	East to West
Description: TRS/County	N/2 S/2 of Sections 33 & 34 19S, 28E, Eddy County, NM
Description: TRS/County	S/2 S/2 of Sections 33 & 34 19S, 28E, Eddy County, NM
Standard Horizontal Well Spacing Unit	Yes
<b>Other Situations</b>	
Depth Severance: No	No
Proximity Tracts: If yes, description	No
Proximity Defining Well: If yes, description	No
Applicant's Ownership in Each Tract	Ex. 1 105 through 108
<b>Well(s)</b>	
Name & API (if assigned), surface and bottom hole location	
footages, completion target, orientation, completion status	
(standard or non-standard)	
	<p><b>Dawson 34 Fed State Com 123H</b>  SHL: 1505 feet from the South line and 715 feet from the East line, (Unit I) of Section 34, Township 19 South, Range 28 East, NMPM.  BHL: 1650 feet from the South line and 10 feet from the West line (Unit L) of Section 33, Township 19 South, Range 28 East, NMPM.  Completion Target: Completion Target: 2nd Bone Spring Sand at approx 7500 feet TVD  Well Orientation: East to West  Completion Location: standard</p> <p><b>Dawson 34 Fed State Com 133H</b>  SHL: 1505 feet from the South line and 760 feet from the East line, (Unit I) of Section 34, Township 19 South, Range 28 East, NMPM.  BHL: 1750 feet from the South line and 10 feet from the West line (Unit L) of Section 34, Township 19 South, Range 28 East, NMPM.  Completion Target: 3rd Bone Spring Sand at approx 8600 feet TVD.  Well Orientation: East to West  Completion Location: standard</p> <p><b>Dawson 34 Fed State Com 124H</b>  SHL: 295 feet from the South line and 560 feet from the East line, (Unit P) of Section 34, Township 19 South, Range 28 East, NMPM.  BHL: 330 feet from the South line and 10 feet from the West line, (Unit M) of Section 33, Township 19 South, Range 28 East, NMPM.  Completion Target: 2nd Bone Spring Sand at approx 7500 feet TVD  Well Orientation: East to West  Completion Location: standard</p> <p><b>Dawson 34 Fed State Com 134H</b>  SHL: 340 feet from the South line and 560 feet from the East line (Unit P) of Section 34, Township 19 South, Range 28 East, NMPM.  BHL: 430 feet from the South line and 10 feet from the West line (Unit M) of Section 33, Township 19 South, Range 28 East, NMPM.  Completion Target: 3rd Bone Spring Sand at approx 8600 feet TVD  Well Orientation: East to West  Completion Location: standard</p>
Horizontal Well First and Last Take Points	Exhibit 1 pages 006, 018, 030, 042
Completion Target (Formation, TVD and MD)	Exhibit 1 AFE's pages 120, 123, 124, 125, 126 and also listed above with each well.
	<b>Identify the Exhibit and Page for Information below this line</b>
<b>AFE Capex and Operating Costs</b>	
Drilling Supervision/Month \$	\$8000/\$800
Production Supervision/Month \$	Exhibit 1 pages 123 through 126 for AFE's

Justification for Supervision Costs	Exhibit 1 pages 123 through 126 for AFE's
Request Risk Charge	200% please see Exhibit 1 pages 123 through 126 for AFE's
<b>Notice of Hearing</b>	
Proposed Notice of Hearing	Exhibit 3 pages 004-012 (Affidavit of Ernest L. Padilla)
Proof of Mailed Notice of Hearing (20 days before hearing)	Exhibit 3 pages 013 through 025 (Affidavit of Ernest L. Padilla)
Proof of Published Notice of Hearing (10 days before hearing)	Exhibit 3 pages 078-083
<b>Ownership Determination</b>	
Land Ownership Schematic of the Spacing Unit	Exhibit 1, pages 105-108
Tract List (including lease numbers and owners)	Exhibit 1, pages 105-108
Pooled Parties (including ownership type)	Exhibit 1, pages 105-108
Unlocatable Parties to be Pooled	Exhibit 3, pages 021 through 025 pages 078-083
Ownership Depth Severance (including percentage above & below)	None
<b>Joinder</b>	
Sample Copy of Proposed Letter	Exhibit 1, pages 118-119
List of Interest Owners (ie Exhibit A of JOA)	Exhibit 1, pages 105-108
Chronology of Contact with Non-Joined Working Interests	Exhibit 1, page 117
Overhead Rates in Proposal Letter	Exhibit 1, pages 118-119
Cost Estimates to Drill and Complete	Exhibit 1, pages 123-126 of AFE's
Cost Estimate to Equip Well	Exhibit 1, pages 123-126 of AFE's
Cost Estimate for Production Facilities	Exhibit 1, pages 123-126 of AFE's
<b>Geology</b>	
Summary (including special considerations)	Exhibit 2, pages 001-002
Spacing Unit Schematic	None
Gunbarrel/Lateral Trajectory Schematic	Exhibit 2, page 005
Well Orientation (with rationale)	none
Target Formation	Exhibit 2, pages 012, 013 & 014
HSU Cross Section	Exhibit 2, pages 012, 013 & 014
Depth Severance Discussion	none
Forms, Figures and Tables	none
C-102	see above
Tracts	Exhibit 2, page 009, 010, 011
Summary of Interests, Unit Recapitulation (Tracts)	none
General Location Map (including basin)	Exhibit 2, page 006
Well Orientation (with rationale)	Exhibit 2, page 009
Structure Contour Map - Subsea Depth	Exhibit 2, page 008 & 010
Cross Section Location Map (including wells)	Exhibit 2, page 012
Cross Section (including Landing Zone)	Exhibit 2, page 013, 014
<b>Additional Information</b>	
<b>CERTIFICATION: I hereby certify that the information provided in this checklist is complete and accurate.</b>	
Printed Name: (Attorney or Party Representative):	Ernest L. Padilla
Signed Name: (Attorney or Party Representative):	
Date: June 4, 2020	