

From: [Salvidrez, Marlene, EMNRD](#)
To: [Lance D. Hough](#); [Hearings, OCD, EMNRD](#)
Cc: [Adam Rankin](#); [Earl E. DeBrine](#); [Michael Feldewert](#)
Subject: RE: Colgate's request for additional delay of Cases 21337, 21338 (COG's Tenderloin)
Date: Wednesday, July 15, 2020 12:18:00 PM
Attachments: [image001.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Good afternoon,

Felicia and I have conversed and these two cases will be noted as a status conference on the July 23rd docket.

Thank you.

Marlene Salvidrez

Oil Conservation Division
Energy, Minerals and Natural Resources Department
(505) 476-3461



From: Lance D. Hough <ldh@modrall.com>
Sent: Wednesday, July 15, 2020 11:50 AM
To: Hearings, OCD, EMNRD <OCD.Hearings@state.nm.us>
Cc: Adam Rankin <AGRRankin@hollandhart.com>; Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>; Earl E. DeBrine <edebrine@modrall.com>; Michael Feldewert <MFeldewert@hollandhart.com>
Subject: [EXT] RE: Colgate's request for additional delay of Cases 21337, 21338 (COG's Tenderloin)

To the extent a response is necessary, Colgate provides the following:

1. The Division's policies dictate this case will be continued. One of the Division's current COVID-19 policies is that the Division is not hearing contested cases on its regular dockets, and the arguments from COG below create further contested issues (e.g., contested presentation of evidence regarding notice) that warrant a status conference to schedule a contested hearing. It is also important to note that under the Division's policy, it treats any case where a party is opposed to presentation by affidavit as a contested case. In other words, the fact that we're raising these arguments right now indicates these cases should only be set for a status conference on 7/23. Last, there is no Division policy that requires a party to have a competing development in order to oppose presentation by affidavit, as COG seems to imply below.
2. A review of the email attached to Mr. Felderwert's email does not contain a representation that "no additional continuances would occur," thus there was no agreement to that effect. There was an agreement to continue to 7/23 to allow Colgate to evaluate the cases since

Colgate had just received the hearing notice days before the hearing. Colgate agreed to a continuance to specifically 7/23 because that was the only amount of time COG would agree to continue and it would allow COG to proceed with its case if Colgate determined it was not opposed after it had a week to evaluate. An agreement to continue to 7/23 is not an agreement to preclude all further continuances. To the extent there was some confusion, Colgate should be given the benefit of the doubt given the totality of circumstances.

3. Colgate's notice below cannot be contrary to "prior representations to the Division" because the notice below is merely that "Colgate is opposed to the presentation of Cases 21337 and 21338 by affidavit on 7/23." Under COG's argument, no party could ever agree to one continuance and then subsequently contest a case. Since the last continuance, Colgate has evaluated and determined it is opposed to the presentation of Cases 21337 and 21338 by affidavit on 7/23.

Please let me know if you have any questions or concerns, or need additional information. Thank you for your attention to this matter.

Sincerely,



Lance D. Hough
Associate Attorney
D: 505.848.1826

From: Michael Feldewert <MFeldewert@hollandhart.com>
Sent: Wednesday, July 15, 2020 10:58 AM
To: Lance D. Hough <ldh@modrall.com>; Hearings, OCD, EMNRD <OCD.Hearings@state.nm.us>
Cc: Adam Rankin <AGRankin@hollandhart.com>; Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>; Earl E. DeBrine <edebrine@modrall.com>
Subject: Colgate's request for additional delay of Cases 21337, 21338 (COG's Tenderloin)

COG objects to Colgate's unsubstantiated, additional request for delay of the hearing in these matters.

First, these matters were on the docket for hearing on July 9th. Colgate filed a late request for a continuance of the July 9th hearing that COG and the Division accommodated under Colgate's representation that no additional continuances would occur and that "a continuance to the next docket on 7/23 would give them sufficient time to evaluate and prepare to the extent necessary." See Attached email.

Second, Colgate has not provided any basis for this additional delay of the hearing. Colgate does not have a competing development plan. COG will demonstrate on July 23rd that proper notice of the hearing was provided to ALL pooled parties and that COG's discussed its development plans with Colgate (and all the pooled parties) prior to filing the application, as it must at every hearing. There is no basis for a "contested" hearing and nothing to address at a contested hearing.

Colgate's notice below is contrary to its prior representations to the Division and this unsubstantiated obstructionist tactic should not be condoned.

Michael H. Feldewert

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From: Lance D. Hough <ldh@modrall.com>

Sent: Wednesday, July 15, 2020 10:22 AM

To: Hearings, OCD, EMNRD <OCD.Hearings@state.nm.us>

Cc: Michael Feldewert <MFeldewert@hollandhart.com>; Adam Rankin

<AGRankin@hollandhart.com>; Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>; Earl

E. DeBrine <edebrine@modrall.com>

Subject: Cases 21337, 21338 (COG's Tenderloin); Status Conference for Contested Cases

External Email

EXTERNAL EMAIL: Please do not click any links or open any attachments unless you trust the sender and are expecting this message and know the content is safe.

Good morning,

These cases are currently set for hearing on 7/23. I am writing to notify the Division that Colgate is opposed to the presentation of Cases 21337 and 21338 by affidavit on 7/23. As a result, our understanding is that these cases will be set for a brief status conference on 7/23 and continued for purposes of presenting evidence.

Please let me know if you have any questions or concerns. Thank you for your attention to this matter.

Sincerely,



Lance D. Hough

Associate

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