

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 8668 (REOPENED)
ORDER NO. R-8031-A**

**APPLICATION OF DOYLE HARTMAN FOR
COMPULSORY POOLING, LEA COUNTY,
BEING REOPENED UPON THE APPLICATION
OF HOWARD OLSEN TO RECONSIDER
THE PROVISIONS OF DIVISION ORDER NO. R-8031**

RECEIVED

FEB 25 1991

**OIL CONSERVATION DIV.
SANTA FE**

PRE-HEARING STATEMENT

This prehearing statement is submitted by Doyle Hartman as required by the
Oil Conservation Division.

APPEARANCES OF PARTIES

APPLICANT

Howard Olsen
Phoenix, Arizona

ATTORNEY

T. Calder Ezzell, Jr., Esq.
Hinkle, Cox, Eaton,
Coffield & Hensley
P.O. Box 10
Roswell, New Mexico 88201

OPPOSITION OR OTHER PARTY

Doyle Hartman, Oil Operator
500 North Main
Midland, Texas 79701
(915) 684-4011

ATTORNEY

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Gallegos Law Firm
141 East Palace Avenue
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STATEMENT OF CASE

APPLICANT

Doyle Hartman applied in 1985 in Case No. 8668 to force pool certain mineral interests in Lea County New Mexico. The Division on September 27, 1985 granted his application by Order No. R-8031. Two years later, Howard Olsen, an owner of one of the force pooled mineral interests who neither appeared nor objected in the initial force pooling proceedings, filed an application to reopen the proceeding on August 17, 1987. Olsen seeks a reopening of the proceeding to determine whether Hartman complied with the requirements of Order No. R-8031, or alternatively seeks that Order No. R-8031 be rescinded. Specifically, Olsen claims that he did not receive an itemized schedule of estimated well costs prior to commencement of or after completion of the well drilled pursuant to the Division's force pooling Order.

OPPOSITION OR OTHER PARTY

As more fully set forth in Doyle Hartman's Response to Application and Motion to Dismiss, filed with the Division on June 16, 1989 and attached hereto and incorporated by reference, it is Hartman's position that he has complied with the terms of Division Order No. 8031 and has provided all necessary and substantial information on drilling costs to Olsen, that Olsen's application should be dismissed and that Olsen must abide by the terms of Order No. 8031, including payment of his share of drilling costs subject to the 200% nonconsent penalty included therein.

An Examiner Hearing was held on Olsen's application to reopen on September 6, 1989. Olsen did not challenge the reasonableness of well costs at the hearing. The Examiner issued Order No. R-8031-A on January 8, 1991. Although the Examiner Ordered that Order No. R-8031 should remain in full force and effect and that the well costs incurred by Hartman were reasonable, Olsen was allowed 30 days from the entry of the 1991 Order to elect to participate in the well by payment of his share of well costs with interest. Upon such election, Hartman is required by Order No. R-8031-A to pay Olsen proceeds from production attributable to Olsen's interest, with interest on such proceeds from date of their receipt by Hartman. Hartman, therefore, seeks a hearing de novo.¹

¹ The de novo hearing in this case is scheduled at the same time as a de novo hearing in the companion Case No. 8769 on Order No. R-8091-A, where the issues and evidence to be presented are identical but relate to a different pooled unit and different well.

PROPOSED EVIDENCE

OPPOSITION

<u>WITNESS</u>	<u>EST TIME</u>	<u>EXHIBITS</u>
<u>Howard Olsen</u> (By Deposition) Prior compulsory pooling proceedings, negotiations and agreement to sell properties to D. Hartman	30 minutes	13
<u>Doyle Hartman</u> Prior compulsory pooling pooling hearings, notifications to H. Olsen, negotiations and agreements to purchase H. Olsen's interests.	30 minutes	19
<u>William Aycok</u> Prior pooling hearings	10 minutes	None
<u>Lisa Woodward</u> Well revenues and expenses and allocation among working interest owners.	10 minutes	None
<u>Garold Bowlby</u> (By deposition) H. Olsen review of expense and revenue records.	30 minutes	None

PROCEDURAL MATTERS

Hartman's Motion to Dismiss is hereby expressly renewed before the Commission.

GALLEGOS LAW FIRM

By 
J.E. GALLEGOS
JOANNE REUTER

141 East Palace Avenue
Santa Fe, New Mexico 87501
(505) 983-6686

ATTORNEYS FOR
DOYLE HARTMAN, OIL OPERATOR

STATE OF NEW MEXICO
ENERGY AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

**IN THE MATTER OF THE
APPLICATION OF HOWARD OLSEN
TO REOPEN CASE NOS. 8668
AND 8769, LEA COUNTY, NEW MEXICO**

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JUN 16 1989

**RESPONSE TO APPLICATION
AND MOTION TO DISMISS**

OIL CONSERVATION DIVISION

DOYLE HARTMAN ("Hartman") hereby submits this Response to the captioned Application filed by Howard Olsen ("Olsen"). While Olsen asks the Oil Conservation Division ("Division") to reopen the earlier proceedings, in reality Olsen seeks to avoid the nonconsent penalties imposed upon him by Order Nos. 8668 and 8769. Hartman hereby moves the Division to dismiss the Application for the following reasons:

1. After proper notice and hearing, Order Nos. 8668 and 8769 were duly entered by the Division on September 27 and December 6, 1985, respectively. Olsen did not timely request a rehearing, but instead instituted this Cause approximately two years later seeking to overturn the action of the Division. Olsen may not now collaterally attack those Orders.

2. Olsen initiated this Cause in September of 1987. On April 15, 1989, the OCD notified Olsen's counsel that this Application would be scheduled for hearing and dismissed. Olsen's attorney requested a further continuance. Olsen has utterly failed to prosecute this Cause with due diligence and is prolonging the administrative process in an attempt to subvert a judicial resolution of other legal disputes with Hartman.

3. At the same time Hartman sought the compulsory pooling Orders attacked herein, he was negotiating with Olsen and arrived at an agreement for the purchase of

Olsen's interest. Hartman relied upon Olsen's agreement to sell his interest, but Olsen later reneged on that agreement. Olsen is equitably estopped from asserting any technical noncompliance with the provisions of Order Nos. 8668 and 8769.

4. Hartman drilled the wells authorized by the Orders at issue, undertaking all the financial risks and managerial responsibility for the benefit of the interest owners within the pooled lands. Hartman conscientiously complied with the terms and conditions imposed by Order Nos. 8668 and 8769. The policy underlying the conservation laws mandates that Olsen also abide by the terms of those Orders, including the payment of his share of drilling costs subject to the nonconsent penalty.

WHEREFORE, Hartman requests this Motion be set for hearing on the Division's docket for July 12, 1989, and the Division dismiss the Application for the foregoing reasons.

Respectfully submitted,

By Harry T. Nutter

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Attorneys for Respondent
Doyle Hartman

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Response was served on this 16th day of June, 1989, to all counsel of record.

Harry T. Nutter
HARRY T. NUTTER