CHRISTI CRADDICK, *CHAIRMAN*
RYAN SITTON, *COMMISSIONER*
WAYNE CHRISTIAN, *COMMISSIONER*

DANA AVANT LEWIS, *DIRECTOR*

RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION

OIL & GAS DOCKET NO. 08-0316736

APPLICATION OF COLGATE OPERATING, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT TO AMEND THE POOLED UNIT FOR THE CANTALOUPE MIPA WELL NO. 1H, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY, TEXAS

OIL & GAS DOCKET NO. 08-0316738

APPLICATION OF COLGATE OPERATING, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT TO AMEND THE POOLED UNIT FOR THE MOSES MIPA WELL NO. 1H, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY, TEXAS

OIL & GAS DOCKET NO. 08-0316750

APPLICATION OF COLGATE OPERATING, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT TO AMEND THE POOLED UNIT FOR THE GOLIATH MIPA WELL NO. 1H, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY, TEXAS

OIL & GAS DOCKET NO. 08-0316751

APPLICATION OF COLGATE OPERATING, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT TO AMEND THE POOLED UNIT FOR THE KING DAVID MIPA WELL NO. 1H, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY, TEXAS

OIL & GAS DOCKET NO. 08-0316752

APPLICATION OF COLGATE OPERATING, LLC PURSUANT TO THE MINERAL INTEREST POOLING ACT TO AMEND THE POOLED UNIT FOR THE RAMSES MIPA WELL NO. 1H, PHANTOM (WOLFCAMP) FIELD, REEVES COUNTY, TEXAS

EXAMINERS' REPORT AND RECOMMENDATION

HEARD BY: Kristi M. Reeve, Administrative Law Judge
Karl Caldwell, P.E., Technical Examiner

PROCEDURAL HISTORY:

Application Filed -	December 4, 2018
Notice of Hearing -	January 4, 2019
Hearing Date -	February 4, 2019
Transcript Received -	February 19, 2019

Record Closed - March 6, 2019
Conference - April 9, 2019

APPEARANCES:
For Applicant Colgate Operating, LLC –
John Hicks, *Scott Douglass McConnico* – Counsel for Applicant
Rick Johnston, P.E. – Consulting Petroleum Engineer
Brandon Gaynor – Senior Vice President
Patrick Godwin – Land Manager
Preston Midkiff – Senior Landman
Casey Goree – Land Technician

As Observer –
Kimberlee Cox

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I. Statement of the Case

The five docketed cases are presented together in this Examiners' Report and Recommendation ("Report") because they have common facts, parties and legal issues.

Applicant Colgate Operating, LLC ("Applicant" or "Colgate") filed five applications ('Applications') under the Mineral Interest Pooling Act ("MIPA").[1] The Applications ask the Railroad Commission of Texas ("Commission") to amend the unit size of five existing MIPA units in and around the Town of Pecos City, Reeves County, Texas. The Applications were heard together. Colgate asserts that a compulsory pooling order under MIPA is necessary to prevent waste and protect correlative rights. The Applications are unprotested.

The Administrative Law Judge and Technical Examiner ("Examiners") respectfully submit this Report and recommend that the Commission grant the Applications.

II. Jurisdiction and Notice

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission. The MIPA grants the Commission authority to pool mineral interests into a unit under certain conditions.[2]

On January 4, 2019, the Hearings Division of the Commission sent a Notice of Hearing for each of the Applications via first-class mail to all interested parties.[3] Colgate published each Notice of Hearing four times in the Pecos Enterprise, a newspaper of general circulation in Reeves County, on January 3, 10, 17, and 24, 2019.[4] The mailed and published notices included the specific requests in Colgate's applications regarding the proposed size of the units, method of allocation, charge for risk, and designation of operator.[5] The notice contained: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted.[6] The hearing was held on February 4, 2019, as noticed. Consequently, all parties received more than 30 days' notice.[7] Applicant appeared at the hearing on February 4, 2019 and presented evidence and argument. No one appeared in protest.

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[1] Tex. Nat. Res. Code §§ 102.001-102.112.
[2] *See* Tex. Nat. Res. Code § 102.011.
[3] Applicant's Ex. 3A-3E.
[4] Applicant's Ex. 4A-4E.
[5] Applicant's Exs. 3A-3E; 4A-4E.
[6] *See* Tex. Gov. Code §§ 2001.051, 2001.052; 16 Tex. Admin. Code §§ 1.41, 1.42, 1.45.
[7] Tex. Nat. Res. Code § 102.016.

III. Applicable Legal Authority

At issue in these cases is whether Applicant may amend its previously created pooled units consisting of both leased and force-pooled unleased mineral interests into larger amended units under the MIPA. Pertinent sections of the MIPA at issue in this case are as follows:

> Sec. 102.003 APPLICATIONS TO CERTAIN RESERVOIRS. The provisions of this chapter do not apply to any reservoir discovered and produced before March 8, 1961.
>
> Sec. 102.011. AUTHORITY OF COMMISSION. When two or more separately owned tracts of land are embraced in a common reservoir of oil or gas for which the commission has established the size and shape of proration units, whether by temporary or permanent field rules, and where there are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir and the owners have not agreed to pool their interests, and where at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir, the commission, on the application of an owner specified in Section 102.012 of this code and for the purpose of avoiding the drilling of unnecessary wells, protecting correlative rights, or preventing waste, shall establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit, which unit shall in no event exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance.
>
> Sec. 102.012. OWNERS AUTHORIZED TO APPLY FOR POOLING. The following interested owners may apply to the commission for the pooling of mineral interests:
>
> (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
> (2) the owner of any working interest; or
> (3) any owner of an unleased tract other than a royalty owner.
>
> Sec. 102.013. REQUIRED VOLUNTARY POOLING OFFER.
> The applicant shall set forth in detail the nature of voluntary pooling offers made to the owners of the other interests in the proposed unit.
>
> (a) The commission shall dismiss the application if it finds that a fair and reasonable offer to pool voluntarily has not been made by the applicant.
> (b) An offer by an owner of a royalty or any other interest in oil or gas within an existing proration unit to share on the same yardstick basis as the other owners within the existing proration unit are then sharing shall be

considered a fair and reasonable offer.[8]

According to the MIPA, for an applicant to prevail, the following must be established:

1. There are two or more separately owned tracts of land;
2. They are embraced in a common reservoir of oil or gas;
3. The commission has established the size and shape of proration units for the reservoir;
4. There are separately owned interests in oil and gas within an existing or proposed proration unit in the common reservoir;
5. The reservoir was not discovered and produced before March 8, 1961;
6. The owners have not agreed to pool their interests;
7. At least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir;
8. An application for the Commission to pool has been made by one of the following:
   (1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
   (2) the owner of any working interest; or
   (3) any owner of an unleased tract other than a royalty owner;
9. Applicant made a fair and reasonable offer to pool voluntarily; and
10. A pooled unit will avoid the drilling of unnecessary wells, protect correlative rights, or prevent waste.

If these criteria are met, the Commission must establish a unit and pool all of the interests in the unit within an area containing the approximate acreage of the proration unit.

IV. Discussion of Evidence

A. The Applications

In each Application, Colgate asks the Commission to amend the size of an existing MIPA unit. As amended, each pooled unit will consist of all of the acreage voluntarily pooled into a corresponding voluntary pooled unit, as well as all unleased acreage within the boundaries of the voluntary pooled unit. These amended MIPA units are proposed as the Cantaloupe 1H MIPA Unit (549.91 acres), the Moses 1H MIPA Unit (635.31 acres), the Goliath 1H MIPA Unit (554.37 acres), the King David 1H MIPA Unit (644.06 acres), and the Ramses 1H MIPA Unit (606.12 acres).[9]

Other than the size of each proposed unit, the Applications are substantively identical. For each, Colgate proposes to drill one or more horizontal wells in the Phantom (Wolfcamp) Field and to allocate production between the acreage pooled into the

[8] Tex. Nat. Res. Code §§ 102.003, 102.011, 102.012, 102.013.
[9] Applicant's Exs. 2A-2E.

respective voluntary unit and the unleased tracts on a surface-acreage basis. Colgate also asks Commission to provide a charge for risk of 100% and to designate Colgate as the operator of the MIPA unit.[10]

B. The Voluntary Pooling Offer

On or about January 7, 2019, Colgate sent a voluntary pooling offer to all mineral owners of unleased tracts within the boundaries of the proposed units. Colgate offered these unleased mineral owners three options for inclusion of their interests in the respective proposed units: a lease option, a working-interest participation option, and a farm-out option. The lease option included a 25% royalty, a bonus of $7,150 per net mineral acre, and a primary term of three years. The oil, gas and mineral lease attached to the offer letter provided that Colgate was authorized to pool the tract owners' mineral interest into a pooled unit. The participation option provided each unleased owner an opportunity to participate as a working interest owner in the respective proposed unit. By electing this option, the owner would be responsible for a proportionate share of the costs of drilling and completing the well or wells in the unit and would share proportionately in the production from the well. Each offer letter had as an attachment an AFE (Authorization for Expenditure) indicating the estimated cost to complete and drill the relevant well and confirmed that the operating agreement would not contain any of the provisions prohibited by Section 102.015 of MIPA. The farm-out option proposed to each unleased owner that he or she convey to Colgate an 80% net revenue interest attributable to his or her mineral interest and retain an overriding royalty interest equal to 20% of 8/8ths, proportionately reduced to the extent that each owner's mineral interest bears to all of the mineral interests in the unit, until payout of all well costs. At payout, the electing owner would have the option to convert the retained override to a 25% working interest, proportionately reduced.[11]

Colgate's expert landman, Preston Midkiff, testified that the voluntary pooling offers Colgate made in this case were fair and reasonable and matched—or were superior to—the offers that Colgate made in 2017 that were found to be fair and reasonable by the Commission in the MIPA applications that resulted in the five MIPA units for which Colgate is seeking orders to amend the size. [12]

C. Field, Discovery Date and State of Texas Ownership

The MIPA does not apply in fields discovered and produced before March 8, 1961, and it does not apply to land in which the State of Texas has an interest unless the State has given consent.[13] These exceptions to MIPA do not apply in this case—the proposed MIPA units include multiple tracts of land that embrace the common reservoir designated by the Commission as the Phantom (Wolfcamp) Field (the 'Field'). The discovery date for the Field was June 23, 1983, and special field rules establishing proration units have

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[10] Applicant's Exs. 2A-2E.
[11] Applicant's Exs. 11A-11E.
[12] Tr. 55:11-19.
[13] MIPA §§ 102.003, 102.004.

been established for the Field.[14] There are lands in which the State of Texas has an interest, but the Commissioner of the General Land Office has provided the State's consent to Colgate's MIPA applications.[15]

D. The Need for MIPA

Mr. Midkiff estimated that Colgate had spent over $30 million on its title research and leasing efforts in and under the Town of Pecos.[16] Mr. Midkiff stated Colgate expended significant effort and money in order to determine mineral ownership and obtain leases on as much of the acreage as possible within the proposed enlarged MIPA units. These efforts involved extensive title work to identify the current owners of mineral interests in the various tracts within the MIPA units, including for example, identifying the 20 owners in a tiny 0.0119-acre (518 square foot) tract in the Cantaloupe Unit.[17] Colgate has taken over 3,500 leases on tracts within the MIPA units. As of the hearing, Colgate had leases on over 96% of the acreage within the proposed Cantaloupe 1H MIPA Unit; over 88% of the acreage within the proposed Moses 1H MIPA Unit; over 85% of the acreage within the proposed Goliath 1H MIPA Unit; over 83% of the acreage within the proposed King David 1H MIPA Unit; and over 82% of the acreage within the proposed Ramses 1H MIPA Unit.[18]

E. Amended Unit Sizes

The five MIPA units for which Colgate seeks to amend the size were originally applied for by Colgate on the assumption that the proposed wells would be oil wells,[19] and were sized accordingly. As the wells have now been completed, three of the five wells already qualify as gas wells and the other two are reasonably expected to qualify as gas wells. The Phantom (Wolfcamp) Field Rules that apply to the wells at issue provide that a well with a gas-oil ratio (GOR) of 3,000 cubic feet per barrel and above may be classified as a gas well.[20] The Cantaloupe MIPA 1H well has a GOR greater than 3,000 and has been classified as a gas well in the Phantom (Wolfcamp) Field.[21] The Moses MIPA 1H well, and the Goliath MIPA 1H well each have a GOR greater than 3000, and Colgate has filed gas-well completion reports for both of those wells in the Phantom (Wolfcamp) Field.[22] In addition, Colgate's nearest Phantom (Wolfcamp) well to the MIPA wells is the Lazarus 67 Unit 1H, which has also been classified by the Commission as a gas well.[23] Colgate's King David MIPA 1H well and the Ramses MIPA 1H well have been completed and are flowing back without a stabilized GOR;[24] however, based on the performance of the nearest Phantom (Wolfcamp) wells (i.e. the Cantaloupe, Moses,

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[14] Applicant's Exs. 15, 17.
[15] Applicant's Ex. 26F.
[16] Tr. 44:18-23.
[17] Tr. 47:14-48:18; Applicant's Ex. 27.
[18] Applicant's Ex. 2F.
[19] Tr. 34:13-16.
[20] Applicant's Ex. 15, Rule 5.
[21] Applicant's Ex. 16A.
[22] Applicant's Exs. 16B, 16C.
[23] Applicant's Ex. 19.
[24] Tr. 93:13-20.

Goliath, and Lazarus 67 1H wells), including evidence that the GOR of these wells increases over time, Colgate expects that the King David MIPA 1H well and the Ramses MIPA 1H well will also be classified as gas wells in the Phantom (Wolfcamp) Field.[25]

Based on MIPA allowing unit sizes for gas wells of up to 704 acres (640 acres + 10%),[26] Colgate has requested that the MIPA unit size of each of the MIPA units be enlarged to the same size as Colgate's respective voluntary units, each of which is less than 704 acres.[27]

F. Charge for Risk

Colgate's Applications requested that the Commission's MIPA pooling order include a 100% charge for risk attached to the working-interest component, as authorized under Section 102.052 of the MIPA.[28] The mailed and published Notices of Hearing gave notice that Colgate was seeking a 100% charge for risk.[29]

Colgate established that the risk factor in private operating agreements in the Field, as reflected in the non-consent provision, ranges from 300% to 400% of the non-consenting party's share of drilling and completion costs.[30] A 200% non-consent provision in the model form operating agreement is equivalent to a 100% charge for risk under MIPA.[31] The EURs of nearby wells in the Field exhibit significant variance from the average, establishing significant inherent risk associated with each individual well.[32] Mr. Rick Johnston, P.E., Colgate's consulting expert petroleum evaluation engineer, testified that a significant number of the wells in this area of the Field will not payout under current conditions, such that each successful well needs to payout not only for itself but also makeup for another well that does not payout, which supports Colgate's requested 100% charge for risk under the MIPA.[33] Mr. Johnston also testified that the reserves underlying the proposed MIPA units are considered proved undeveloped unconventional reserves, to which industry typically applies a reserve adjustment factor of 50%, which also aligns with a 100% charge for risk under MIPA.[34]

Four of the five MIPA units for which Colgate now seeks to amend the unit size have a 100% charge for risk.[35] The lone exception is the Cantaloupe 1H MIPA Unit, which was established with a 50% charge for risk.[36] Colgate agreed on the record that it would not consider it adverse if the charge for risk applicable to the drilling of the Cantaloupe

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[25] Tr. 121:3-8.
[26] MIPA § 102.011
[27] Tr. 38:18-23; Applicant's Exs. 10A-10E.
[28] Applicant's Exs. 2A-2E.
[29] Applicant's Exs. 3, 4.
[30] Tr. 63:4-70:16; Applicant's Exs. 12, 13.
[31] Tr. 71:7-10.
[32] Tr. 103:14-105:2; Applicant's Ex. 21.
[33] Tr. 111:12-112:18; Applicant's Ex. 24.
[34] Tr. 114:15-116:8; Applicant's Ex. 25.
[35] Applicant's Exs. 5B-5E.
[36] Applicant's Ex. 5A.

1H well remained at 50% and any future wells drilled within the amended Cantaloupe MIPA unit would have a charge for risk of 100%.[37]

G. The Applications are Unprotested

No one has protested the Applications or the proposed charge for risk.

V. Examiners' Analysis

The Examiners recommend the Commission grant the Applications and allow a 100% charge of risk for the Moses 1H MIPA Unit, Goliath 1H MIPA Unit, King David 1H MIPA Unit, and Ramses 1H MIPA Unit (as previously granted by the Commission for the original units) and for the Cantaloupe MIPA unit expansion to continue to provide for a 50% charge for risk (as previously granted for the original unit) as to the drilling and completion costs of the Cantaloupe 1H well and a 100% charge for risk as to the drilling and completion costs of any additional wells drilled within the Cantaloupe MIPA unit. The Examiners recommend the Commission find that Applicant has met the requirements in the MIPA for forced pooling and the amended unit sizes.

A. Applicant meets the general criteria for pooling set out in the MIPA

The MIPA requires there be two or more separately owned tracts of land embraced in a common reservoir of oil or gas for which the Commission has established the size and shape of proration units for the reservoir. Applicant provided evidence of multiple different interest owners of tracts of land to be drilled in the Phantom (Wolfcamp) Field. The Commission has established the proration units for the field.

The MIPA requires that at least one of the owners of the right to drill has drilled or has proposed to drill a well on the existing or proposed proration unit to the common reservoir. In this case, Applicant has the right to drill and proposes to drill a well in each of the proposed MIPA units.

The MIPA requires that the owners have not agreed to pool their interests. While Applicant has made offers to pool, it has not been able to secure 100% agreement to pool.

The MIPA requires that an application for the Commission to pool has been made by one of the following:

(1) the owner of any interest in oil and gas in an existing proration unit or with respect to a proposed unit;
(2) the owner of any working interest; or
(3) any owner of an unleased tract other than a royalty owner.

Applicant is an owner of mineral interests in each of the proposed MIPA units.

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[37] Tr. 121:22-122:4.

The State of Texas does own a portion of the mineral interests in the proposed units. Applicant obtained consent from the General Land Office as required in the MIPA.

The field was discovered on June 23, 1983.[38] The reservoir at issue meets the requirement in the MIPA to be discovered after March 8. 1961.

B. Applicant meets the requirement of making a fair and reasonable offer to pool voluntarily.

The Examiners find that Colgate's voluntary pooling offers were fair and reasonable. Its offers followed the framework-providing lease, participation, and farm-out options that the Commission has determined to be fair and reasonable in recently approved MIPA applications.

C. The proposed units are necessary to protect correlative rights and prevent waste.

Under MIPA, the Commission may order compulsory pooling when it is necessary to avoid the drilling of unnecessary wells, protect correlative rights, or prevent waste. The evidence in this proceeding demonstrates that compulsory pooling is necessary to prevent waste and to protect correlative rights. Unless compulsory pooling is ordered, Colgate cannot drill the additional wells it has planned for these units due to the impracticality of drilling around the unleased tracts. Therefore, in the absence of compulsory pooling, these wells would not be drilled resulting the waste of the hydrocarbons underling the MIPA units. Additionally, compulsory pooling as proposed by Colgate, wherein the proposed horizontal wells will extend the length of the MIPA units, protects correlative rights because it will allow all tract owners, whether leased or unleased, to have a reasonable opportunity for their fair share of hydrocarbons to be produced.

D. The Examiners recommend a 50% and a 100% charge for risk.

Colgate's unprotested Applications requested a 100% charge for risk be applied only to the working-interest portion of an owner who elects not to pay his proportionate share of the drilling and completion costs in advance. The Examiners concur in light of the economic and mechanical uncertainty and the risk that a well in this area of the Field will not reach payout, as well as the urban leasing and drilling challenges faced by Colgate that a 100% charge for risk is not unreasonable. As the charge for risk for the Cantaloupe 1H well was originally 50%, Colgate agreed that it would not consider it adverse for the order approving the Cantaloupe MIPA unit expansion to continue to provide for a 50% charge for risk as to the drilling and completion costs of the Cantaloupe 1H well and a 100% charge for risk as to the drilling and completion costs of any additional wells drilled within the Cantaloupe MIPA unit.

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[38] Applicant's Exs. 15, 17.

For these reasons, the Examiners recommend that the Commission grant the Applications. Appendix 1 attached to each of the proposed Final Orders accompanying this Examiners' Report and Recommendation is the plats for the respective MIPA Unit, and it shows the proposed MIPA well and the unleased tracts and partially-leased tracts within the proposed MIPA Unit.[39] Appendix 2 attached to each of the proposed Final Orders accompanying this Report is the legal description of the respective MIPA Unit.[40]

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

Based on the record in this case, the Examiners recommend the Commission grant the Applications, with the modification to the charge for risk for the Cantaloupe 1H MIPA Unit and adopt the following findings of fact and conclusions of law.

Findings of Fact

1. Applicant Colgate Operating, LLC ("Colgate") has filed five (5) applications ("Applications") under the Mineral Interest Pooling Act ("MIPA") asking the Railroad Commission of Texas ("Commission") to increase the unit sizes for the Cantaloupe 1H MIPA Unit (549.91 acres), the Moses 1H MIPA Unit (635.31 acres), the Goliath 1H MIPA Unit (554.37 acres), the King David 1H MIPA Unit (644.06 acres), and the Ramses 1H MIPA Unit (606.12 acres), five previously approved MIPA units, for the purpose of drilling horizontal gas wells in the Phantom (Wolfcamp) Field, Reeves County, Texas.

2. On January 4, 2019, the Hearings Division of the Commission sent a Notice of Hearing for each of the Applications Notice of the hearing was published in the via first-class mail to all interested parties, setting a hearing date of February 4, 2019. The notice contained (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on February 4, 2019, as noticed. Consequently, all parties received more than 30 days' notice.

3. Applicant published the Notice of Hearing for each Applicant four times in the *Pecos Enterprise*, a newspaper of general circulation in Reeves County, on January 3, 10, 17, and 24, 2019. The mailed and published notices included the specific requests in Colgate's Applications regarding the proposed size of the units, method of allocation, charge for risk, and designation of operator.

4. The hearing as held on February 4, 2019, as noticed.

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[39] Applicant's Exs. 9A and 9B.
[40] Applicant's Exs. 10A(R) and 10B(R).

5. Colgate appeared at the hearing and presented evidence and argument.

6. No one appeared at the hearing in opposition to Colgate's applications.

7. For the proposed MIPA units, there are two or more separately owned tracts of land embraced within a common reservoir of oil or gas.

8. The tracts within each proposed MIPA unit are within a common reservoir— the Phantom (Wolfcamp) Field—which was discovered on June 23, 1983, and for which the Commission has established the size and shape of proration units.

9. The proposed units reasonably appear to lie within the productive limits of the reservoir.

10. On or about January 7, 2019, Colgate sent a voluntary pooling offer to all mineral owners of unleased tracts within the boundaries of both proposed MIPA units. The unleased mineral owners were offered three options for inclusion of their interests in the proposed units: a lease option, a working-interest participation option, and a farm-out option. The basic terms outlined in the voluntary pooling offer made by Colgate have been found to be fair and reasonable in other cases.

11. Applicant's pooling agreement and offer to pool does not contain any of the following provisions:

    a. Preferential right of the operator to purchase mineral interests in the unit;
    b. A call on or option to purchase production from the unit;
    c. Operating charges that include any part of district or central office expense other than reasonable overhead charges; or
    d. A prohibition against nonoperators questioning the operation of the unit.

12. Not all owners agreed to pool their interests.

13. Applicant's voluntary pooling offer was fair and reasonable.

14. Applicant has the right to drill and has proposed to drill on the proposed MIPA units.

15. Applicant is the owner of an interest in oil and gas in the proposed MIPA units.

16. The reservoirs within the proposed MIPA units were not discovered and produced prior to March 8, 1961.

17. Without compulsory pooling, Colgate will not be able to drill its proposed wells to continue the development of the Phantom (Wolfcamp) Field, Colgate and its lessees will not have a reasonable opportunity to recover their fair share of hydrocarbons from the reservoir, and the underlying hydrocarbons will be left

unrecovered, resulting in waste.

18. The proposed units do contain land owned by the State of Texas, and General Land Office has consented to the proposed MIPA units in the Applications.

19. Colgate presented evidence supporting a charge for risk of 100 percent of the drilling and completion costs of the proposed wells. The Cantaloupe MIPA 1H well was drilled under the prior MIPA order providing for a 50% charge for risk. The Moses MIPA 1H, the Goliath MIPA1H, the King David MIPA 1H, and the Ramses MIPA 1H wells were drilled under prior MIPA orders providing for a 100% charge for risk.

20. Colgate established of the proposed MIPA units will prevent waste and protect correlative rights.

21. Colgate agreed on the record or in writing that pursuant to the provisions of Texas Government Code § 2001.144(a)(4)(A), this Final Order shall be final and effective on the date a Master Order relating to this Final Order is signed.

Conclusions of Law

1. Notice was provided to all parties entitled to notice. *See* Tex. Nat. Res. Code § 102.016.

2. The Commission has jurisdiction in this case. *See* Tex. Nat. Res. Code § 102.011.

3. Colgate made fair and reasonable offers to pool voluntarily, as required by Texas Natural Resources Code§ 102.013, as to each of the proposed MIPA Units.

4. Compulsory pooling of the owners of the unleased tracts within each of the proposed proration units as owners of a 25% royalty and 75% working interest, proportionately reduced; with these owners' share of expenses subject to a charge for risk of 100%, except for the Cantaloupe 1H well, which will remain subject to a 50% charge for risk, all such charges for risk payable only from the owners' working-interest component; and subject to a no-surface-use restriction, is fair and reasonable within the meaning of Texas Natural Resources Code § 102.017.

5. Compulsory pooling of the mineral interests in all tracts within the boundaries of the proposed MIPA Units will serve the purpose of protecting correlative rights and preventing waste.

6. The terms and conditions of the Commission's Final Orders in these proceedings are fair and reasonable and will afford the owner of each tract or interest in each respective unit the opportunity to produce or receive his or her fair share of the hydrocarbons in question.

7. Pursuant to § 2001.144(a)(4)(A) of the Texas Government Code and the agreement of Colgate, this Final Order can be final and effective when a Master Order relating to this Final Order is signed.

Recommendation

The Examiners recommend that Colgate's Applications be approved with a 100% charge of risk for the Moses 1H MIPA Unit, Goliath 1H MIPA Unit, King David 1H MIPA Unit, and Ramses 1H MIPA Unit and for the Cantaloupe MIPA unit expansion to continue at a 50% charge for risk as to the drilling and completion costs of the Cantaloupe 1H well and a 100% charge for risk as to the drilling and completion costs of any additional wells drilled within the Cantaloupe MIPA Unit.

Respectfully,

Kristi M. Reeve
Administrative Law Judge

Karl Caldwell, P.E.
Technical Examiner