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

**APPLICATION OF TMBR/SHARP DRILLING INC.  
FOR AN ORDER STAYING DIVISION APPROVAL  
OF TWO APPLICATIONS FOR PERMIT TO DRILL  
BY DAVID H. ARRINGTON OIL & GAS, INC.,  
LEA COUNTY, NEW MEXICO.**

**CASE NO. 12731**

**PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by TMBR/Sharp Drilling, Inc., as required by the Oil Conservation Division.

**APPEARANCE OF PARTIES**

**APPLICANT:**

**ATTORNEY**

TMBR/Sharp Drilling, Inc.  
P. O. Drawer 10970  
Midland, Texas 79702  
(915) 699-5050  
attn: Jeffrey D. Phillips

W. Thomas Kellahin  
KELLAHIN & KELLAHIN  
P.O. Box 2265  
Santa Fe, NM 87504  
(505) 982-4285

**OPPOSITION:**

David H. Arrington Oil & Gas, Inc.

Gene Gallegos, Esq.

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### STATEMENT OF APPLICANT'S CASE

(1) There exists a dispute between TMBR/Sharp Drilling, Inc. ("TMBR/Sharp") and David H. Arrington Oil & Gas Inc. ("Arrington") over operations in the E/2 of Section 25 and the E/2 of Section 23, T16S, R35E, NMPM, Lea County, New Mexico.

(2) Both TMBR/Sharp and Arrington have filed with the Division (OCD-Hobbs) competing Applications for Permit to Drill ("APD").

(3) The competing APDs are in conflict with each other in that the drilling of these two wells by one party will preclude the drilling of the other two wells by the other party.

(4) The District Supervisor of the Hobbs Office of the Division has approved the two Arrington APDs and correspondingly denied the two TMBR/Sharp APDs and in doing so has favored one title claimant over another.

(5) The District Supervisor has entered a letter/order which has effectively determined a title dispute in favor of Arrington and which will cause TMBR/Sharp's leases to expire for failure to commence a well within the term required for continuous development.

(6) This matter involves a title dispute between the parties which is now the subject of litigation filed with the District Court Clerk, Lea County, New Mexico.

(7) By letter dated August 27, 2001, David H. Arrington Oil & Gas Inc. acknowledged receipt of TMBR/Sharp's application for an Emergency Order filed on August 24, 2001 and agreed that it will not commence operations on either well until after this matter comes before the Division for hearing on the next available Examiner hearing docket.

(9) There is good cause to issue an order in this matter in order to maintain the status quo and preclude any party from gaining an unfair advantage over another while this matter is addressed by the District Court.

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(10) The Director of Division has primary jurisdiction over actions taken by the District Supervisor and must now take action to preclude Arrington from commencing the drilling of these wells pending a resolution of the dispute between Arrington and TMBR/Sharp.

(11) TMBR/Sharp's correlative rights will be impaired if Arrington decides to proceed with either of these wells prior to having this matter resolved either voluntarily or by the district court.

(12) The entry of an Order by the Division will maintain the status quo and will not harm Arrington.

(13) TMBR/Sharp requests that:

(a) David H. Arrington Oil & Gas Inc. be stayed from commencing operations on its Blue Drake 23 Well No. 1 (API #30-025-35644) within the E/2 of Section 23, T16S, R35E, Lea County, New Mexico, pending a final adjudication of District Court Cause CV-2001-315C, Lea County, New Mexico; and

(b) David H. Arrington Oil & Gas Inc. be stayed from commencing operations on its Triple Hackle Dragon 25 Well No. 1 (API #30-025-35644) within the W/2 of Section 25, T16S, R35E, Lea County, New Mexico, pending a final adjudication of District Court Cause CV-2001-315C, Lea County, New Mexico.

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### PROPOSED EVIDENCE

#### APPLICANT:

##### WITNESSES

##### EST. TIME

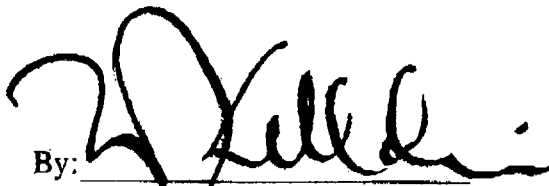
##### EXHIBITS

Randy Watts (landman)  
Jeffrey D. Phillips (president)

### PROCEDURAL MATTERS

Arrington has filed a motion to dismiss and TMBR/Shapr has filed a response.  
Awaiting Division decision.

KELLAHIN AND KELLAHIN



By: \_\_\_\_\_  
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