

**KELLAHIN AND KELLAHIN**  
ATTORNEYS AT LAW  
EL PATIO BUILDING  
117 NORTH GUADALUPE  
POST OFFICE BOX 2265  
SANTA FE, NEW MEXICO 87504-2265

W. THOMAS KELLAHIN\*

\*NEW MEXICO BOARD OF LEGAL SPECIALIZATION  
RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

OIL CONSERVATION DIV  
01 AUG 24 PM 1993  
TELEPHONE (505) 982-4285  
TELEFAX (505) 982-2047

August 24, 2001

**URGENT  
HAND DELIVERED**

Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505

*Case 12731*

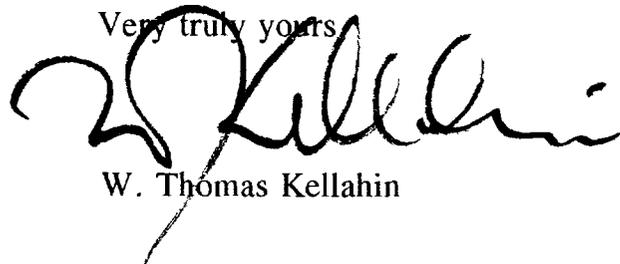
**Re: REQUEST OF TMBR/SHARP DRILLING FOR AN  
EMERGENCY ORDER STAYING DAVID H. ARRINGTON  
OIL & GAS INC. FROM COMMENCING OPERATIONS  
PENDING HEARING**

Dear Ms. Wrotenbery:

On behalf of TMBR/Sharp Drilling, Inc., and in accordance with  
Division Rule 1202, please find enclosed our application for an Emergency  
Order.

I have enclosed a proposed Order for your consideration.

Very truly yours



W. Thomas Kellahin

via hand delivery:

David Brooks, Attorney OCD

via Federal Express:

Chris Williams

Supervisor (OCD-Hobbs)

David H. Arrington Oil & Gas, Inc.  
TMBR/Sharp Drilling Inc.

Attn: Tom Brown

Cotton, Bledsoe, Tighe & Dawson

Attn: Susan Richardson

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

**IN THE MATTER OF THE APPLICATION  
OF TMBR/SHARP DRILLING, INC. FOR  
AN EMERGENCY ORDER OF THE DIVISION**

CASE NO. 12731

**APPLICATION OF TMBR/SHARP DRILLING, INC.  
FOR AN EMERGENCY ORDER  
STAYING  
DAVID H. ARRINGTON OIL & GAS INC.  
FROM COMMENCING OPERATIONS**

Comes now TMBR/Sharp Drilling, INC. ("TMBR/Sharp") by its attorneys, Kellahin & Kellahin, and in accordance with Division Rule 1202 (19 NMAC 15.N.1202), applies to the New Mexico Oil Conservation Division for an emergency order staying David H. Arrington Oil & Gas, Inc.'s ("Arrington") applications for permit and from commencing operations to drill the Triple Hackle Dragon 25 Well No. 1, W/2 Section 25, T16S, R35E and the Blue Drake 23 Well No. 1, E/2 Section 23, T16S, R35E, Lea County, New Mexico prior to the Division entering an order after notice and hearing concerning this matter;

And in support states:

**RELIEF REQUESTED**

(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 Supervisor of the Hobbs Office of the Division has approved the two Arrington APDs and correspondingly denied the two TMBR/Sharp APDs.

(5) The Director of Division has primary jurisdiction over the approval of APDs and must now take emergency action to preclude Arrington from commencing the drilling of these wells pending a resolution of the dispute between Arrington and TMBR/Sharp. **See 19 NMAC 15.C.102; 19 NMAC 15.M.1101; 19 NMAC 15.N.1202**

(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) There is good cause to issue an emergency 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.

## INTRODUCTION

(8) On July 19, 2001, Arrington filed and obtained approval from the OCD-Hobbs to drill the Triple Hackle Dragon 25 Well No. 1 in the N/2 of Section 25, T16S, R35E, Lea County, New Mexico. **See Exhibit 1**

(9) On July 30, 2001, Arrington filed and obtained approval from the OCD-Hobbs to drill the Blue Drake 23 Well No. 1 in the E/2 of Section 23, T16S, R35E, Lea County, New Mexico. **See Exhibit 2**

(10) Arrington's right to drill and operate these wells is predicated upon his assumption that two oil & gas leases held by TMBR/Sharp had expired and that two "top leases" now held by Arrington are in effect.

(11) TMBR/Sharp contends that the disputed lease acreage is subject to a July 1, 1998 Operating Agreement (**See Exhibit 3**) and that its leases of the disputed lease acreage were perpetuated by TMBR/Sharp's drilling of the Blue Fin "24" Well No. 1 which was dedicated to a 320-acre gas spacing and proration unit consisting of the W/2 of Section 24, T16S, R35E. **See Exhibit 4.**

(12) On August 8, 2001, the OCD-Hobbs denied TMBR/Sharp's permit to drill its Blue Fin 25 Well No. 1 to be dedicated to a 320-acre spacing unit consisting of the W/2 of Section 25, T16S, R35E stating that the permit granted to Arrington for his Triple Hackle Dragon Well No. 1 with a N/2 spacing unit orientation precluded the approval of TMBR/Sharp's application. **See Exhibit 5.**

(13) On August 8, 2001, the OCD-Hobbs denied TMBR/Sharp's permit to drill its Leavelle 23 Well No. 1 to be dedicated to a 320-acre spacing unit consisting of the E/2 of Section 23, T16S, R35E stating that the permit granted to Arrington for his Blue Drake 23 Well No. 1 also with a W/2 spacing unit orientation precluded the approval of TMBR/Sharp's application. **See Exhibit 6.**

(14) On August 21, 2001, TMBR/Sharp filed litigation in the Fifth Judicial District Court, Lea County, New Mexico seeking a judicial determination, among other things, of TMBR/Sharp's right to drill and operate wells on the disputed lease acreage. **See Exhibit 7.**

## **BACKGROUND**

(15) Effective December 7, 1997, Madeline Stokes entered into an oil and gas lease with Ameristate Oil & Gas, Inc. ("Stokes Lease") covering, among other lands, the NW/4SW/4 and NW/4 of Section 24, T16S, R35E, Lea County, New Mexico;

(16) Effective December 7, 1997, Erma Stokes Hamilton entered into an oil and gas lease with Ameristate Oil & Gas, Inc. ("Hamilton Lease") covering, among other lands, the NW/4SW/4 and NW/4 of Section 24, T16S, R35E, Lea County, New Mexico;

(17) The primary term for both of these leases ended at midnight June 6, 2001;

(18) TMBR/Sharp is successor to Ameristate.

(19) Effective July 1, 1998, TMBR/Sharp entered into an operating agreement covering lands in Lea County, New Mexico including the Hamilton and Stokes' lands.

(20) On November 17, 2000, TMBR/Sharp as operator under this operating agreement, filed an application for permit to drill its Blue Fin "24" Well No. 1 and to dedicate a 320-acre gas spacing and proration unit consisting of the W/2 of Section 24 to the well. The permit was approved on November 22, 2000 by the OCD.

Request for an Emergency Order

TMBR/Sharp Drilling Inc.

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(21) On March 29, 2001 TMBR/Sharp commenced drilling and on June 29, 2001 completed its Blue Fin 24 Well No. 1 for production from the North Townsend Mississippian Gas Pool.

(22) TMBR/Sharp contends that its drilling and completion of the Blue Fin 24 Well No. 1 was sufficient to extend the Hamilton and Stokes leases beyond their primary terms.

(23) On March 27, 2001, Madeline Stokes entered into an oil and gas lease with James D. Huff ("Stokes-Huff top lease") which covered the same lands as her lease to Ameristate.

(24) On March 27, 2001, Erma Stokes Hamilton entered into an oil and gas lease with James D. Huff ("Hamilton-Huff top lease") which covered the same lands as her lease to Ameristate.

(25) On information and belief, Arrington controls some or all of the operating rights in the Hamilton-Huff top lease and the Stokes-Huff top lease.

(26) On information and belief, Arrington obtained approval of its applications for permits to drill based upon a claim of interest in the Hamilton top lease and the Stokes top lease.

(27) The drilling applications filed by Arrington has prevented TMBR/Sharp from exercising its rights and fulfilling its obligations under the Stokes and Hamilton leases.

(28) TMBR/Sharp attempted to drill two additional wells in accordance with the provisions of the Stokes and Hamilton leases but was denied permits by the NMOCD because APD's had already been approved for Arrington.

(29) TMBR/Sharp has commenced litigation seeking, among other things, a declaratory judgment from the District Court that the Stokes and Hamilton Lease have been extended beyond their primary term and are in full force and effect because TMBR/Sharp was drilling upon lands properly pooled with lands covered by these leases across the expiration of the primary terms of those leases.

## CONCLUSION

(30) 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.

(31) The entry of an Emergency Order by the Division in accordance with Rule 1202 (19 NMAC 15.N.1202) will maintain the status quo and will not harm Arrington.

(32) TMBR/Sharp requests that:

(a) David H. Arrington Oil & Gas Inc. is hereby 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 further order of this Division.

(b) David H. Arrington Oil & Gas Inc. is hereby 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 further order of this Division.

(c) this matter shall be placed on the next available Division Examiner's docket for TMBR/Sharp to appear and show cause why this Emergency Order should not be vacated.

**See Exhibit 8**

RESPECTFULLY SUBMITTED:



W. THOMAS KELLAHIN  
KELLAHIN & KELLAHIN  
P. O. Box 2265  
Santa Fe, New Mexico 87501  
(505) 982-4285

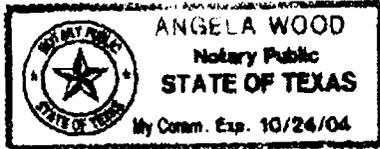
**VERIFICATION**

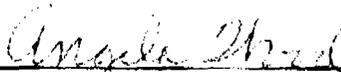
STATE OF TEXAS       §  
                                  §  
COUNTY OF MIDLAND   §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Jeffrey D. Phillips, President of TMBR/SHARP DRILLING, INC., who, after being duly sworn, stated under oath that he is the duly authorized representative of TMBR/SHARP DRILLING, INC.; that he has read the above APPLICATION OF TMBR/SHARP DRILLING, INC. FOR AN EMERGENCY ORDER STAYING DAVID H. ARRINGTON OIL & GAS, INC. FROM COMMENCING OPERATIONS, and that every statement contained therein is within his personal knowledge and to the best of his knowledge and belief is true and correct.

  
Jeffrey D. Phillips, President of TMBR/SHARP  
DRILLING, INC.

Subscribed and sworn to before me, the undersigned Notary Public, on this 23<sup>rd</sup> day of August, 2001.



  
Notary Public, State of Texas