

**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**

**MOTION TO DISMISS APPLICATION**

David H. Arrington Oil & Gas Inc. ("Arrington") by its attorneys moves to dismiss the application herein as grounds stating:

1. The applicant TMBR/Sharp Drilling Inc. ("TMBR") attempts by this proceeding to involve this administrative agency in the adjudication of ownership rights to certain oil and gas leases, an issue and subject matter exclusively within the jurisdiction of the judicial branch of government. The true issue is strictly which of two contending parties is the rightful owner of the oil and gas leasehold in the acreage in Lea County, New Mexico particularly described in the leases attached to Exhibit 7 to the application.

2. The application itself demonstrates that the dispute which TMBR attempts to bring before this agency is already the subject of litigation in the Fifth Judicial District, Lea County, New Mexico.

3. The regulations cited by the applicant (19 NMAC 15.C.102, 19 NMAC 15.M. 1101 and 19 NMAC 15.N.1202) are irrelevant and do not confer jurisdiction in the Director of the Division to determine the contested title to real property.

01 SEP -6 10:01:15  
OIL CONSERVATION DIV

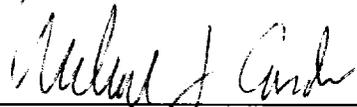
4. The only administrative action which is cognizable by the Division concerns the August 8, 2001 letters of District I Supervisor, Chris Williams, disapproving Form C-101 applications for permits to drill submitted by TMBR. Copies of those letters are attached hereto. The actions of the District Supervisor result from the circumstance of TMBR seeking a permit to drill wells on acreage already dedicated to previously issued permits for the same pool and overlapping well spacing units. As an administrative matter the District Supervisor's actions were clearly and indisputably correct on the facts before him. There is nothing about those decisions that is even alleged to be erroneous, contrary to the rules or regulations or to law.

5. What TMBR, in reality, asks the Director to do is decide that the earliest issued permits to drill have been issued to a party who does not have the leasehold rights to the acreage to be developed. That is a question for the courts, and the courts alone, to decide and not one within the power, authority or jurisdiction of the Division.

WHEREFORE the movant prays the order of the Division dismissing the subject application without further proceeding.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By 

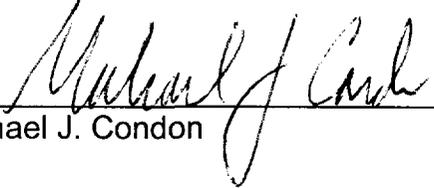
J.E. GALLEGOS  
MICHAEL J. CONDON  
460 St. Michael's Drive, Bldg. 300  
Santa Fe, New Mexico 87505  
(505) 983-6686

Attorneys for David H. Arrington Oil &  
Gas Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the foregoing Motion to Dismiss Application to be mailed on this 6<sup>th</sup> day of September, 2001, to the following:

W. Thomas Kellahin  
Kellahin & Kellahin  
P.O. Box 2265  
Santa Fe, NM 87501

  
\_\_\_\_\_  
Michael J. Condon



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**GARY E. JOHNSON**  
Governor  
**Jennifer A. Salisbury**  
Cabinet Secretary

**Lori Wrotenbery**  
Director  
Oil Conservation Division

August 8, 2001

Jeff Phillips  
TMBR/Sharp Drilling, Inc.  
PO Drawer 10970  
Midland, TX 79702

RE: 1) Application to drill TMBR/Sharp Drilling, Inc., IEAVELIE 23 # 1, located in G-23.T16S.R35E 2038 FNL and 1998 FEL..  
API number 30-025-35654  
2) Voiding API Number 30-025-35654

Dear Mr. Jeff Phillips

We can not approve Form C-101 Application for permit to drill the above well do to the overlapping of the dedicated acreage in the E/2 of Sec 23, T16s, R35E. The proposed completion interval for this application was the Townsend;Mississippian, North (Gas) pool, with the E/2 of Sec 23, T16S, R35E comprising 320 acres dedicated to this well. On July 30, 2001 the Oil Conservation Division office in Hobbs approved an application to drill a well from David H Arrington Oil & Gas, Inc. This well was the David H Arrington Oil & Gas, Inc., Blue Drake 23 # 1, located in I-23.T16S.R35E . 1980 FSL and 660 FEL and dedicated to this well was the E/2 of Sec 23, T16S, R35E comprising 320 acres for the proposed completion in the Townsend;Mississippian, North (Gas) pool. Therefore API number 30-025-35654 is here by voided.

Since TMBR/Sharp Drilling believes that they are the only operator with the rights to drill this well, it is suggested that they take this matter up with David Arrington Oil & Gas Inc.

Yours very truly,

OIL CONSERVATION DIVISION

*Chris Williams (Signature)*  
Chris Williams  
District I, Supervisor

PFK



District I  
 PO Box 1980, Hobbs, NM 88241-1980  
 District II  
 811 South First, Artesia, NM 88210  
 District III  
 1000 Rio Bravo Rd., Aztec, NM 87410  
 District IV  
 2040 South Pacheco, Santa Fe, NM 87505

State of New Mexico  
 Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION  
 2040 South Pacheco  
 Santa Fe, NM 87505

Form C-101  
 Revised October 18, 1994  
 Instructions on back  
 Submit to Appropriate District Office  
 State Lease - 6 Copies  
 Fee Lease - 5 Copies

AMENDED REPORT

APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE

<sup>1</sup> Operator Name and Address: TMBR/Sharp Drilling, Inc. P. O. Drawer 10970 Midland, TX 79702		<sup>1</sup> OGRID Number 036554
		<sup>2</sup> API Number 30-025-35654
<sup>4</sup> Property Code 28580	<sup>5</sup> Property Name Leavelle "23"	<sup>6</sup> Well No. 1

<sup>7</sup> Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	Count
G	23	16S	35E		2038	North	1998	East	Lea

<sup>8</sup> Proposed Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	Count
<sup>9</sup> Proposed Pool 1 Townsend; Mississippian, N.					<sup>10</sup> Proposed Pool 2 Townsend; Morrow				

<sup>11</sup> Work Type Code N	<sup>12</sup> Well Type Code G	<sup>13</sup> Cable/Rotary R	<sup>14</sup> Lease Type Code P	<sup>15</sup> Ground Level Elevation 3965
<sup>16</sup> Multiple No	<sup>17</sup> Proposed Depth 13,200'	<sup>18</sup> Formation Mississippian	<sup>19</sup> Contractor TMBR/Sharp	<sup>20</sup> Spud Date 9/01/01

<sup>21</sup> Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/foot	Setting Depth	Sacks of Cement	Estimated TOC
17 1/2"	13 3/8"	54.5	420	500	Surface
12 1/4"	9 5/8"	40	5,000	1800	Surface
8 1/2"	7"	23 & 26	12,000	1000	5,000
6 1/2"	4 1/2"	11.6	13,200	135	11,900

<sup>22</sup> Describe the proposed program. If this application is to DEEPEN or PLUG BACK give the data on the present productive zone and proposed new productive zone. Describe the blowout prevention program, if any. Use additional sheets if necessary.

It is proposed to drill a 17 1/2" hole to ±420' with fresh water & set 13 3/8" csg & cement to surface. A 12 1/4" intermediate hole will be drilled to ±5000' with cut-brine system & 9 5/8" csg will be set & cemented back to surface. A 3000 psi annular preventer & 3000 psi dual ram BOP will be used on the intermediate hole. An 8 1/2" hole will be drilled to a TD of ±12,000' with FW mud where 7" csg will be set at TD & cemented back to the intermediate csg @ 5000'. We will drill a 6 1/2" hole to TD of ±13,200'. We plan to run a 4 1/2" liner to TD with top of liner @ 11,900' & cement w/135 sacks. A 3000 psi annular preventer & a 5000 psi double ram BOP will be used on the 8 1/2" & 6 1/2" hole. Mud up will occur between 9000' & 10,000' & several DST's are planned.

<sup>23</sup> I hereby certify that the information given above is true and complete to the best of my knowledge and belief. Signature: <i>L. N. Arnold</i>		<b>OIL CONSERVATION DIVISION</b>	
Printed name: Lonnie Arnold		Approved by:	
Title: Production Manager		Title:	
Date: August 6, 2001		Approval Date:	
Phone: (915) 699-8050		Expiration Date:	
Conditions of Approval: Attached <input type="checkbox"/>			

Permit Expires 1 Year From Approval  
 Date Unless Drilling Underway

State of New Mexico

Energy, Minerals and Natural Resources Department

OIL CONSERVATION DIVISION

P.O. Box 2088

Santa Fe, New Mexico 87504-2088

Form C-10  
Revised February 10, 1999  
Submit to Appropriate District Office  
State Lease - 4 Copies  
Fee Lease - 3 Copies

District II  
District III  
District IV

WELL LOCATION AND ACREAGE DEDICATION PLAT

AMENDED REPORT

API Number <b>30-025-35654</b>	Well Code <b>86390</b>	Well Name <b>Townsend; Mississippian, N.</b>
Property Code <b>28580</b>	Property Name <b>LEAVELLE 23</b>	Well Number <b>1</b>
OSWD No. <b>036554</b>	Operator Name <b>TMBR/SHARP DRILLING, INC.</b>	Elevation <b>3965'</b>

Surface Location

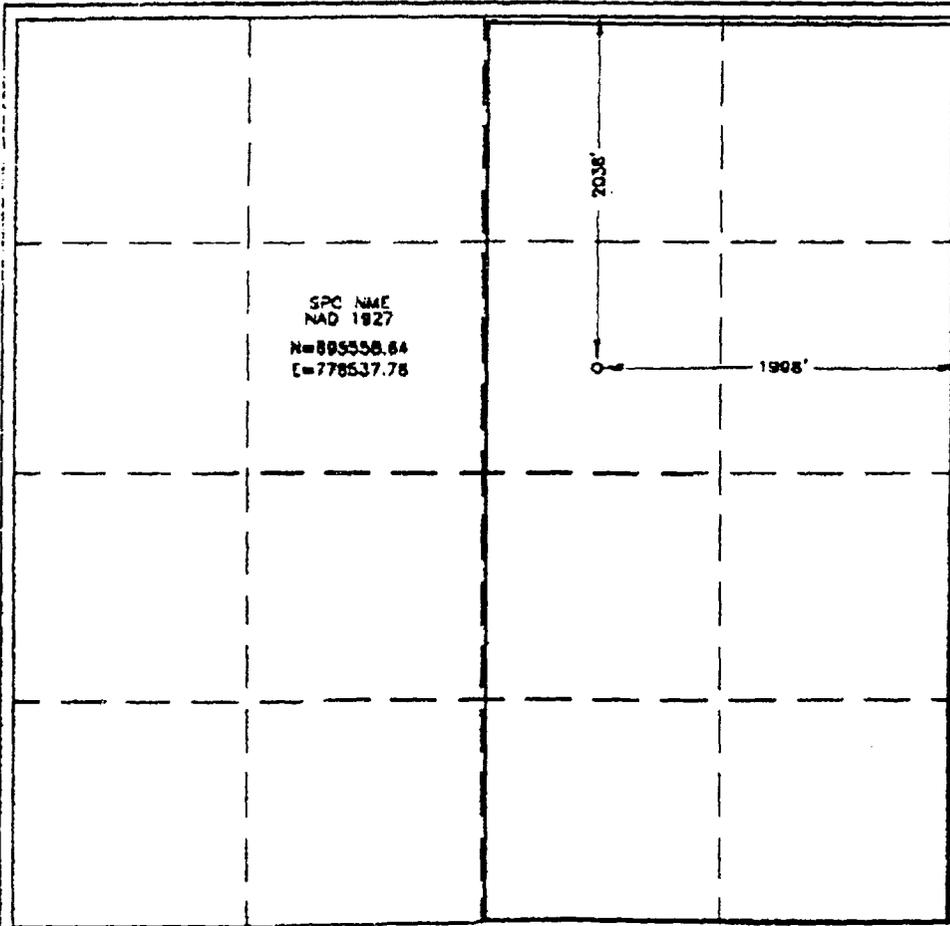
UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
G	23	16-S	35-E		2038	NORTH	1998	EAST	LEA

Bottom Hole Location if Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County

Dedicated Acres <b>320</b>	Joint or Infill	Consolidation Code	Order No.
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NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION



OPERATOR CERTIFICATION

I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief.

*[Signature]*  
Signature

Lonnie Arnold  
Printed Name

Production Manager  
Title

8/6/01  
Date

SURVEYOR CERTIFICATION

I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.

JULY 26, 2001

Date Surveyed AWB

Signature of Surveyor

Professional Surveyor  
  
 Certified No. 11109002  
 State of New Mexico  
 PROFESSIONAL SURVEYOR



# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

**GARY E. JOHNSON**  
Governor  
**Jennifer A. Sallsbury**  
Cabinet Secretary

**Lori Wrotenbery**  
Director  
Oil Conservation Division

August 8, 2001

Jeff Phillips  
TMBR/Sharp Drilling, Inc.  
PO Drawer 10970  
Midland, TX 79702

RE: 1) Application to drill TMBR/Sharp Drilling, Inc., Blue Fin 25 # 1, located in E-25.T16S.R35E 1913 FNL and 924 FWL,  
API number 30-025-35653  
2) Voiding API Number 30-025-35653

Dear Mr. Jeff Phillips

We can not approve Form C-101 Application for permit to drill the above well do to the overlapping of the dedicated acreage in the NW/4 of Sec 25, T16s, R35E. The proposed completion interval for this application was a Wildcat, Mississippian (Gas) pool, with the N/2 of Sec 25, T16S, R35E comprising 320 acres dedicated to this well. On July 19, 2001 the Oil Conservation Division office in Hobbs approved an application to drill a well from David H Arrington Oil & Gas, Inc. This well was the David H Arrington Oil & Gas, Inc., Triple-Hackle Dragon 25 # 1, located in E-25.T16S.R35E 1815 FNL and 750 FWL and dedicated to this well was the W/2 of Sec 25, T16S, R35E comprising 320 acres for the proposed completion as a Wildcat, Mississippian (Gas) pool. Therefore API number 30-025-35653 is hereby voided.

Since TMBR/Sharp Drilling believes that they are the only operator with the rights to drill this well, it is suggested that they take this mater up with David Arrington Oil & Gas Inc.

Yours very truly,

OIL CONSERVATION DIVISION

*Chris Williams (AK)*  
Chris Williams  
District I, Supervisor

PFK

Oil Conservation Division • 1625 French Drive • Hobbs, New Mexico 88240  
Phone: (505) 393-6161 • Fax (505) 393-0720 • <http://www.emnrd.state.nm.us>



District I  
 PO Box 1780, Moore, NM 88241-1980  
 District II  
 811 South Firm, Artesia, NM 88210  
 District III  
 1000 Rio Brazos Rd., Aztec, NM 87410  
 District IV  
 2040 South Pacheco, Santa Fe, NM 87505

State of New Mexico  
 Energy, Minerals & Natural Resources Department

OIL CONSERVATION DIVISION  
 2040 South Pacheco  
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		<sup>3</sup> API Number 30-025-35653
<sup>4</sup> Property Code 28579	<sup>5</sup> Property Name Blue Fin "25"	<sup>6</sup> Well No. 1

<sup>7</sup> Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	Corner
E	25	16S	35E		1913	North	924	West	Lea

<sup>8</sup> Proposed Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	Corner

<sup>9</sup> Proposed Pool 1 Townsend; Mississippian, N.	<sup>10</sup> Proposed Pool 2 Townsend; Morrow
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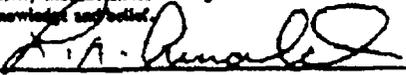
<sup>11</sup> Work Type Code N	<sup>12</sup> Well Type Code G	<sup>13</sup> Cable/Rotary R	<sup>14</sup> Lease Type Code P	<sup>15</sup> Ground Level Elevation 3959
<sup>16</sup> Multiple No	<sup>17</sup> Proposed Depth 13,200'	<sup>18</sup> Formation Mississippian	<sup>19</sup> Contractor TMBR/Sharp	<sup>20</sup> Spud Date 9/01/01

<sup>21</sup> Proposed Casing and Cement Program

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<sup>23</sup> I hereby certify that the information given above is true and complete to the best of my knowledge and belief. Signature: 	<b>OIL CONSERVATION DIVISION</b>	
Printed name: Leslie Arnold	Approved by:	
Title: Production Manager	Title:	
Date: August 6, 2001	Approval Date:	Expiration Date:
Phone: (915) 699-9050	Conditions of Approval: Attached <input type="checkbox"/>	

Permit Expires 1 Year From Approval Date Unless Drilling Underway

