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NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

September 14, 2001

HAND DELIVERED

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

Case 12744

**Re: Application of TMBR/Sharp Drilling, Inc.
appeal to the Director concerning the denial
of two applications for permits to drill
Lea County, New Mexico**

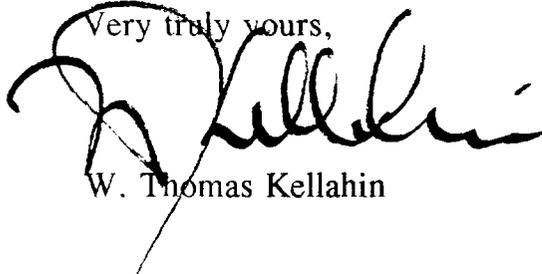
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OIL CONSERVATION DIV

Dear Ms. Wrotenbery:

On behalf of TMBR/Sharp, Inc., please find enclosed our referenced application which we request be set for hearing at the next available Examiner's docket now scheduled for October 18, 2001. Also enclosed is our proposed advertisement of this case for the NMOCD docket.

Very truly yours,



W. Thomas Kellahin

cc: Michael E. Stogner, OCD Hearing Examiner
David Brooks, OCD Attorney
Chris Williams
Supervisory (OCD-Hobbs)
Gene Gallegos, Esq.
Attorney for David H. Arrington Oil & Gas, Inc.
TMBR/Sharp Drilling, Inc.
attn: Tom Brown
c/o Susan Richardson, Esq.

CASE 12744: Application of TMBR/Sharp Drilling, Inc. appeals to the Director of the New Mexico Oil Conservation Division the Artesia District Supervisor's decision denying approval of two applications for permit to drill ("APDs") filed by TMBR/Sharp Inc., Lea County, New Mexico. Applicant requests that the Director order the District Supervisor to approve 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 and 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, Lea County, New Mexico. These wells are located approximately 5 miles southwest of the center of the City of Lovington, New Mexico.

01 SEP 14 AM 11:47
NO. 12744-100 TO

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

**IN THE MATTER OF THE APPLICATION OF
TMBR/SHARP DRILLING, INC. APPEALING
THE ARTESIA DISTRICT SUPERVISOR'S
DECISION DENYING APPROVAL OF TWO
APPLICATIONS FOR PERMIT TO DRILL
FILED BY TMBR/SHARP DRILLING, INC.
LEA COUNTY, NEW MEXICO**

CASE NO. 12744

OIL CONSERVATION DIV
SEP 14 11:47 AM '11

**APPLICATION OF TMBR/SHARP DRILLING, INC.
APPEALING THE ARTESIA DISTRICT
SUPERVISOR'S DECISION DENYING APPROVAL
OF TWO APPLICATIONS FOR PERMIT TO DRILL
FILED BY TMBR/SHARP DRILLING, INC.
LEA COUNTY, NEW MEXICO**

Comes now TMBR/Sharp Drilling, INC. ("TMBR/Sharp") by its attorneys, Kellahin & Kellahin, and appeals to the Director of the New Mexico Oil Conservation Division the Artesia District Supervisor's decision denying approval of two applications for permit to drill ("APDs") filed by TMBR/Sharp and requests that the Director order the District Supervisor to approve 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 and 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, Lea County, New Mexico;

And in support states:

(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) On July 19, 2001, Arrington filed an application for permit to drill ("APD" including Division Form C-101 and Form C-102) 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**

(5) On July 30, 2001, Arrington filed an application for permit to drill ("APD" including Division Form C-1-1 and Form C-102) 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**

(6) On August 8, 2001, the OCD-Hobbs issued a letter/order denying 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 3.**

(7) On August 8, 2001, the OCD-Hobbs issued a letter/order denying 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 4.**

(8) 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.

(9) In doing so, 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.

(10) The Division's approval of the APDs filed by Arrington and its corresponding denial of the TMBR/Sharp APDs have prevented TMBR/Sharp from exercising its rights and fulfilling its obligations under the Stokes and Hamilton leases.

(11) 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.

(12) 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.

(13) The Director of Division has primary jurisdiction over actions taken by the District Supervisor and must now take action to reverse the order of the Artesia District Supervisor and approve TMBR/Sharp's APDs. See **19 NMAC 15.C.102; 19 NMAC 15.M.1101;**

(14) TMBR/Sharp's correlative rights will be impaired if the Director of the Division does not reverse the decision of the Division's Artesia District Supervisor

WHEREFORE, TMBR/Sharp Drilling, Inc. requests that the Director order the District Supervisor to:

(a) approve 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, Lea County, New Mexico and

(b) approve 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, Lea County, New Mexico;

RESPECTFULLY SUBMITTED:



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