

**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 PM 01:16
CLERK OF COURT

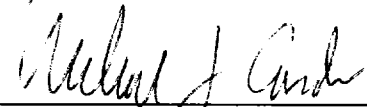
4. The only administrative action which is cognizable by the Division concerns the August 8, 2001 letters of District I Supervisor, Chris Williams, disapproving Form C-101 applications for permits to drill submitted by TMBR. Copies of those letters are attached hereto. The actions of the District Supervisor 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

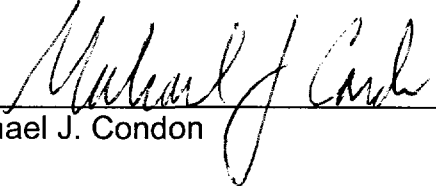
460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505
(505) 983-6686

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 6th 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., IEA VELI.E 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. Therefor 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

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 1980, Hobbs, NM 88241-1980
District II
811 South Firm, 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

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

¹ 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

¹ 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

¹ Proposed Pool 1 Townsend; Mississippian, N.	¹ Proposed Pool 2 Townsend; Morrow
--	---

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

²¹ Proposed Casing and Cement Program

Hole Size	Casing Size	Casing weight/foot	Setting Depth	Sacks of Cement	Estimated TOC
17 1/2"	13 3/4"	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

²² 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 $\pm 420'$ with fresh water & set 13 3/4" csg & cement to surface. A 12 1/4" intermediate hole will be drilled to $\pm 5000'$ 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 $\pm 12,000'$ 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 $\pm 13,200'$. 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.

²³ I hereby certify that the information given above is true and complete to the best of my knowledge and belief.

Signature: *L. H. Arnold*
 Printed name: **Leanne Arnold**
 Title: **Production Manager**
 Date: **August 6, 2001**
 Phone: **(915) 699-5050**

OIL CONSERVATION DIVISION

Approved by:

Title:

Approval Date:

Expiration Date:

Conditions of Approval:

Attached ☐

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

P.O. Box 900, Santa Fe, N.M. 87501-0900

DISTRICT III

1000 Elia Street N.E., Albuquerque, N.M. 87110

DISTRICT IV

P.O. Box 9000, Santa Fe, N.M. 87506-0900

WELL LOCATION AND ACREAGE DEDICATION PLAT

☐ AMENDED REPORT

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

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 320	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

<div style="text-align: center;"> <p>SPC NAME NAD 1927 N=895358.64 E=778537.78</p> </div>	OPERATOR CERTIFICATION I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief. 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 Signature PROFESSIONAL SURVEYOR State of New Mexico 01.1109002 Certificate No.	
	AWB Date Surveyed 01.1109002 Signature PROFESSIONAL SURVEYOR State of New Mexico 01.1109002 Certificate No.	
	AWB Date Surveyed 01.1109002 Signature PROFESSIONAL SURVEYOR State of New Mexico 01.1109002 Certificate No.	



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. Therefor API number 30-025-35653 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 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, Hobbs, NM 88241-1980
District II
811 South First, 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
Santa Fe, NM 87505

Form C-101
Revised October 18, 1994
Instructions on back
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Fee Lease - 5 Copies

☐ AMENDED REPORT

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

¹ Operator Name and Address: TMBR/Sharp Drilling, Inc. P. O. Drawer 10970 Midland, TX 79702		¹ OGREID Number 036554
		¹ API Number 30-023-35653
¹ Property Code 28579	¹ Property Name Blue Fin "25"	¹ Well No. 1

⁷ Surface Location

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

⁸ Proposed Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot 16n	Feet from the	North/South line	Feet from the	East/West line	Corner

⁹ Proposed Pool 1 Townsend; Mississippian, N.	⁹ Proposed Pool 2 Townsend; Morrow
---	--

¹¹ Work Type Code N	¹¹ Well Type Code G	¹¹ Cable/Rotary R	¹¹ Lease Type Code P	¹¹ Ground Level Elevation 3959
¹¹ Multiple No	¹¹ Proposed Depth 13,200'	¹¹ Formation Mississippian	¹¹ Contractor TMBR/Sharp	¹¹ Spud Date 9/01/01

²¹ 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

²² 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.

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²³ I hereby certify that the information given above is true and complete to the best of my knowledge and belief.

Signature:

Printed name: Lenzie Arnold

Title: Production Manager

Date: August 6, 2001

Phone: (915) 699-5050

OIL CONSERVATION DIVISION

Approved by:

Title:

Approval Date:

Expiration Date:

Conditions of Approval:

Attached ☐

Permit Expires 1 Year From Approval
Date Unless Drilling Underway

<div style="position: relative; height: 400px;"> <div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; border: 1px dashed black;"></div> <div style="position: absolute; top: 10%; left: 10%; width: 10%; height: 10%; border: 1px solid black; text-align: center; line-height: 10px;"> 924' </div> <div style="position: absolute; top: 10%; left: 10%; width: 10%; height: 10%; border: 1px solid black; text-align: center; line-height: 10px;"> 1913' </div> <div style="position: absolute; top: 30%; left: 20%; text-align: center;"> SPC NME NAD 1927 N=690423.16 E=781505.33 </div> </div>	<div style="border: 1px solid black; padding: 5px;"> <h3 style="text-align: center; margin: 0;">OPERATOR CERTIFICATION</h3> <p style="font-size: small; margin: 5px 0;">I hereby certify the information contained herein is true and complete to the best of my knowledge and belief.</p> <div style="margin-top: 10px;"> </div> <div style="margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Signature</div> </div> <div style="margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Printed Name</div> </div> <div style="margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Production Manager</div> </div> <div style="margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Title</div> </div> <div style="margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Date</div> </div> </div>
<div style="border: 1px solid black; padding: 5px;"> <h3 style="text-align: center; margin: 0;">SURVEYOR CERTIFICATION</h3> <p style="font-size: small; margin: 5px 0;">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.</p> <div style="text-align: right; margin-top: 10px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Date Surveyed</div> </div> <div style="text-align: right; margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Signature of Surveyor</div> </div> <div style="text-align: right; margin-top: 5px;"> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="font-size: small; margin-top: 5px;">Professional Engineer</div> </div> </div>	

NEW MEXICO
 PROFESSIONAL ENGINEER
 001130899

Date

Certificate No. 20245-2-2000 2230
 State of New Mexico 1204