

3-18-02

COPY

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF OCEAN ENERGY,  
INC. FOR COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

No. 12841

APPLICATION OF TMBR/SHARP DRILLING,  
INC. FOR COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

No. 12816

RESPONSE OF OCEAN ENERGY, INC. IN OPPOSITION TO  
MOTION TO CONTINUE

TMBR/Sharp Drilling, Inc. ("TMBR/Sharp") has filed a motion to continue the above cases. Ocean Energy, Inc. ("Ocean") opposes the motion.

I. ARGUMENT.

Ocean has a farmout on the working interest in the SW $\frac{1}{4}$  of Section 25. The farmout expires on July 1, 2002, and will not be extended. See the Affidavit of Derold Maney, attached as Exhibit A. In order to develop its property, Ocean applied for an order pooling all mineral interests from the surface to the base of the Mississippian formation underlying the W $\frac{1}{2}$  of Section 25, Township 16 South, Range 35 East, N.M.P.M., Lea County, New Mexico. TMBR/Sharp has applied, in Case No. 12816, for an order pooling the N $\frac{1}{2}$  of Section 25. Both of these matters are set for hearing on the March 21st docket.

As the Division is aware, there is a dispute between TMBR/Sharp and David H. Arrington Oil & Gas, Inc. ("Arrington") over APD's covering all of Section 25. See Case Nos. 12731 and 12744 (de novo). Their dispute arises due a title dispute affecting ownership of 100% of the working interest in the NW $\frac{1}{4}$  of Section 25 (and apparently the SE $\frac{1}{4}$  of Section 25).

TMBR/Sharp asserts that until the Commission decides the de novo cases, a decision in the pooling cases is premature. As discussed in Ocean's response to TMBR/Sharp's Motion to Dismiss, the battle over the TMBR/Sharp and Arrington APD's is irrelevant to the competing pooling cases of Ocean and TMBR/Sharp. For brevity, that argument is not reiterated herein. However, in short, any dispute over APD's is subsidiary to a pooling order entered by the Division, and Ocean's case will not be made moot by the Commission's decision.

Moreover, if this case is delayed, Ocean's rights under its farmout will be imperiled, thus adversely affecting its correlative rights.

### III. CONCLUSION.

For the reasons stated above, TMBR/Sharp's motion must be denied.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James Bruce", is written over a horizontal line.

James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
(505) 982-2043

Attorney for Ocean Energy, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Entry of Appearance was served upon the following counsel of record via facsimile transmission this 18<sup>th</sup> day of March, 2002:

W. Thomas Kellahin  
Kellahin & Kellahin  
Post Office Box 2265  
Santa Fe, New Mexico 87504  
Fax No. (505) 982-2047

  
\_\_\_\_\_  
James Bruce

BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION

APPLICATION OF OCEAN ENERGY,  
INC. FOR COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO.

Case No. 12,841

AFFIDAVIT OF DEROLD MANEY

STATE OF TEXAS

COUNTY OF HARRIS

ss.

Derold Maney, being duly sworn upon his oath, deposes and states:

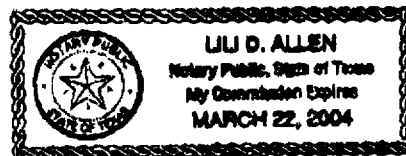
1. I am over the age of 18, and have personal knowledge of the matters stated herein.
2. I am a landman for Ocean Energy, Inc.
3. Ocean Energy, Inc. has obtained a farmout agreement covering 100% of the working interest in the SW $\frac{1}{4}$  of Section 25, Township 16 South, Range 35 East, N.M.P.M., Lea County, New Mexico.
4. The farmout agreement requires a well to be commenced on the SW $\frac{1}{4}$  of Section 25, or on lands pooled therewith, by July 1, 2002.
5. The farmers of the farmout agreement have informed Ocean Energy, Inc. in writing that they will not extend that well commencement date.

*Derold Maney*  
Derold Maney

SUBSCRIBED AND SWORN TO before me this 18TH day of March, 2002, by Derold Maney.

*Lili D. Allen*  
Notary Public

My Commission Expires:



**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)

TELEPHONE (505) 962-4255  
TELEFAX (505) 962-2047

March 16, 2002

**Via Facsimile**

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

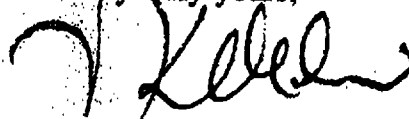
**MOTION TO CONTINUE**

- Re: Case 12816 N/2 Section 25, T16S, R35E  
Application of TMBR/Sharp Drilling, Inc.  
for compulsory pooling, Lea County, New Mexico
- Re: Case 12841 W/2 Section 25, T16S, R35E  
Application of Ocean Energy, Inc.  
for compulsory pooling, Lea County, New Mexico

Dear Ms. Wrotenbery:

On behalf of TMBR/Sharp Drilling's ("TMBR/Sharp") we request that the reference cases set for hearing of the Examiner's docket for March 21, 2002, be continue until the New Mexico Oil Conservation Commission enters an order decide Cases 12744 and 12731 current pending a De Novo hearing on March 26, 2002.

Very truly yours,



W. Thomas Kellahin

- cc: David K. Brooks,  
Division Attorney  
Michael E. Stogner, Examiner  
James Bruce, Esq.,  
Attorney for Ocean Energy, Inc.

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

APPLICATION OF TMBR/SHARP DRILLING INC. CASE NO. 12816  
FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO

APPLICATION OF OCEAN ENERGY, INC. CASE NO. 12841  
FOR COMPULSORY POOLING,  
LEA COUNTY, NEW MEXICO

**MOTION OF TMBR/SHARP DRILLING, INC.  
TO CONTINUE CASE 12816 AND 12841**

Comes now TMBR/Sharp Drilling, Inc. ("TMBR/Sharp") by its attorneys, Kellahin & Kellahin, and moves that the New Mexico Oil Conservation Division continue Ocean Energy, Inc. (Ocean") application for compulsory pooling (Case 12841) of the W/2 of Section 25 Township 16 South, Range 35 East and TMRB/Sharp application for compulsory pooling (Case 12816) of the N/2 of Section 25 Township 16 South, Range 35 East on the grounds that a hearing on these pooling cases is premature until the New Mexico Oil Conservation entered an order in Cases 12744 (DeNovo) and Case 12731 (DeNovo) set for hearing on March 26, 2002.

And in support states:

(1) On August 6, 2001, TMBR/Sharp filed an application for a permit to drill ("APD") with the Hobbs Office of the Division requesting a permit to drill its Blue Fin "25" Well No. 1 in Unit E and to dedicated it to the N/2 of Section 25, T16S, R35E.

NMOCD Cases 12816 and 12841

Motion to Continue

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(2) The Division, in Order R-11700 (Case 12731 and 12744) refused to approve TMBR/Sharp's APD because on July 19, 2001, the Division approved an APD for David H. Arrington Oil & Gas Inc. ("Arrington") for its Triple Hackle Dragon "25" Well No. 1 for a spacing unit consisting of the W/2 of Section 25 based upon his claim of colorable title on the Hamilton/Stokes top leases, and stated that:

(a) "(22) that "Arrington has demonstrated at least a colorable claim of title that would confer upon it a right to drill its proposed wells, no basis exists to reverse or overrule the action of the District Supervisor in approving the Arrington APDs."

(b) "(21) The Oil Conservation Division has no jurisdiction to determine the validity of any title, or the validity or continuation in force and effect of any oil and gas lease. Exclusive jurisdiction of such matters resides in the courts of the State of New Mexico"

(3) On December 27, 2001, the Lea County District Court, exercised that jurisdiction, and has ruled that TMBR/Sharp's Hamilton/Storks leases are still valid and Arrington's Hamilton/Stokes top leases are not in effect. See Exhibit "A"

(4) On January 8, 2002, TMBR/Sharp's timely filed an application for a DeNovo Hearing of cases 12731 and 12744, Order R-11700 which is set for hearing on March 26, 2002.

(5) TMBR/Sharp is now entitled to have the Commission order the Division to approve the TMBR/Sharp APD without inference from Arrington or Ocean.

(6) If the Commission decides that TMBR/Sharp is now entitled to have its APD issued by the Division then Ocean's compulsory pooling application is moot.

(7) Proceeding with the compulsory pooling cases is premature until the Commissions decides the De Novo Cases.

NMOCD Cases 12816 and 12841

Motion to Continue

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(8) Issuance of a compulsory pooling order to Ocean will interfere with TMBR/Sharp right to receive an approved APD to which it was entitled and would have received but for the wrongful actions of Arrington.

(9) A decision by the Division concerning the Ocean compulsory pooling case can not be made until the Commission decides TMBR/Sharp's De Novo cases.

RESPECTFULLY SUBMITTED:



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

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing pleading was sent by facsimile this 16th day of March, 2002 to James Bruce, Esq., attorney for Ocean Energy, Inc.



W. Thomas Kellahin