

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

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

CASE NO. 12816

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

CASE NO. 12841

**TMBR/SHARP DRILLING, INC.
PRE-HEARING STATEMENT**

This pre-hearing statement is submitted by TMBR.Sharp Drilling Inc., as required by the Oil Conservation Division.

APPEARANCE OF PARTIES

APPLICANT

TMBR/Sharp Drilling, Inc.
P. O; Box 10970
Midland, Texas 79702
(915) 699-5050
attn: Tom Beall

ATTORNEY

W. Thomas Kellahin
KELLAHIN & KELLAHIN
P..O. Box 2265
Santa Fe, NM 87504
(505) 982-4285

Susan Richardson, Esq.
Richard Montgomery, Esq.
Cotton, Bledsoe, Tighe & Dawson
500 W. Illinois
Midland, Texas 79701-4437
(915) 684-5782

OPPOSITION OR OTHER PARTY

Ocean Energy, Inc.

ATTORNEY

James Bruce, Esq.

David H. Arrington Oil & Gas Inc.

Ernest Carroll, Esq.

Evidence

TMBR/Sharp's compulsory pooling case:

(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.

(2) TMBR/Sharp has 100 % of the working interest in the NW/4 of Section 25, and its compulsory pooling case is necessary in order to consolidate certain owner in the NW/4 of Section 25 to form a 320-acre spacing unit consisting of the N/2 of Section 25.

(3) TMBR/Sharp geological and geophysical evidence will demonstrate that the appropriate development of Section 25 is best accomplished by orientation the spacing units N/2 and S/2.

(4) TMBR/Sharp originally developed the concept for the exploration of Section 25.

(5) TMBR/Sharp was the first working interest owner to propose a well in Section 25.

(6) On December 13, 2001, the Division entered Order R-11700, 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"

(7) The Lea County District Court, has exercised that jurisdiction, and has ruled that TMBR/Sharp's Hamilton/Storks leases are still valid and in effect and Arrington's Hamilton/Stokes top leases are not in effect.

(8) TMBR/Sharp is now entitled to have its APD issued by the Division without inference from Arrington or Ocean.

(9) The issuance of a compulsory pooling order to Ocean will preclude TMBR/Sharp from receive an approved APD to which it was entitled and would have received but for the wrongful actions of Arrington.

(10) At the time TMBR/Sharp filed its APD, Arrington had no interest in the W/2 of Section 25.

(11) Arrington did not receive an interest in Ocean's various farm-ins in the SW/4 of Section 25 until November 14, 2001,

(12) Ocean's compulsory pooling application is an attempt by Ocean to substitute itself for Arrington on the APD approved by the Division on July 19, 2001:

(a) on September 10, 2001, Ocean and Arrington entered into a Letter Agreement concerning their plans for the Triple Hackle Dragon "25" Well No. 1 for the W/2 of Section 25:

(b) which provide that Arrington would be the Operator;

(c) that if drilling title opinion requirement prevented Arrington from drilling, Ocean would be the operator

(b) Ocean now seeks a compulsory pooling order for the Arrington's Triple Hackle Dragon "25" Well No. 1

ARGUMENT

Ocean's application unduly interferes with TMBR/Sharp's prior right to drill the well it sought to drill in August 2001 until Arrington interfered with that right. Arrington argued to the Division at the hearing in Case 12731 that its Stokes/Hamilton Top leases gave Arrington the right to apply for and receive the permit to drill the Triple Hackle Dragon "25" Well No. 1. Specifically, Mr. Ernest Carroll arguing on behalf of Arrington said, "We own the Hamilton and Stokes interest because we have a valid lease...We have a right to apply for a permit." (Case 12731, Transcript, page 22) By order of the Court in the Fifth Judicial District of Lea County, New Mexico, on December 27, 2001, Arrington's Stokes/Hamilton top leases were declared inferior to TMBR/Sharp's original leases which are still valid. Therefore Arrington was without authority and was not legally qualified to file for and receive the Division approved permit to drill the Triple Hackle Dragon "25" Well No. 1. In addition, but for Arrington's blocking of TMBR/Sharp's permit, TMBR/Sharp would have received a permit to drill and would have already drilled its well in the N/2 of Section 25.

Arrington, entered into an agreement with Ocean that if Arrington was not successful in curing any title disputes then Ocean would become the operator of the Triple Hackle Dragon "25" Well No. 1 and that Ocean would initiate compulsory pooling proceedings for a spacing unit consisting of the W/2 of Section 25.

Arrington's APD is invalid and cannot be transferred to Ocean so that Ocean can be substituted for Arrington. Except for Arrington's acts, TMBR/Sharp's APD would have been approved and TMBR/Sharp would have all ready drilled its well.

A failure by the Division to now approve TMBR/Sharp's APD amounts to a violation of TMBR/Sharp's constitutional protected rights to due process. The Division appears to have issued an illegal permit to Arrington, a non-owner with no right to a permit, at the expense for TMBR/Sharp, an owner with a right to a permit, who is now blocked from drilling. The Division's failure to have safeguards in place and allow a permit to be "pending" until title is resolved has destroyed and damaged TMBR/Sharp's property rights to drill a well in the N/2 of Section 25. Ocean should not be allowed to take advantage of a wrong caused by Arrington.

Cases 12816 and 12841

TMBR/Sharp Drilling Inc.'s Pre-Hearing Statement

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In Order R-11700, paragraph 25, the Division said "it has jurisdiction to revoke its approval of any APD in an appropriate case." Now is the time to exercise that jurisdiction.

WITNESSES

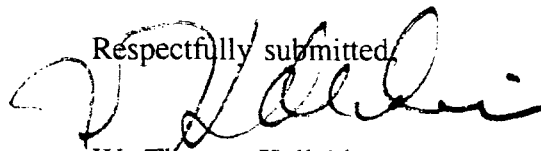
WITNESSES	EST. TIME	EXHIBITS
Tom Beall	45 min.	
Jeffrey D. Phillips	1 hr.	
Randy Watts (land)	30 minutes	
Mark Nearburg (land)	30 minutes	
Louis Muzzoulla (geological)	1 hours	

PROCEDURAL MATTERS

(1) TMBR/Sharp's Motion to continue pending a decision by the Commission is cases 12744 and 12731 (Order R-11700)

(2) TMBR/Sharp's Motion to Dismiss Ocean's compulsory pooling case 12841

Respectfully submitted,



W. Thomas Kellahin
KELLAHIN AND KELLAHIN
P. O. Box 2265
Santa Fe, New Mexico 87504
(505) 982-4285