

(9) On or about August 6, 2001, TMBR/Sharp filed an Application for Permit to Drill (form C-101) for its proposed Leavelle "23" Well No. 1, to be located in the E/2 of Section 23, Township 16 South, Range 35 East, Lea County, New Mexico, at a standard location in SW/4 NE/4 (Unit F), 1998 feet from the east line and 2038 feet from the north line of the section. On August 8, 2001, Paul Kautz, acting for the District Supervisor of the Division, denied this APD by reason of the previous issuance of the APD for Arrington's Blue Drake "23" Well No. 1.

(10) The APDs described in findings (8) and (9) are the TMBR/Sharp APDs that are the subject of the applications filed in these consolidated cases.

(11) On August 21, 2001, TMBR/Sharp filed the TMBR/Sharp suit.

(12) In the TMBR/Sharp suit, TMBR/Sharp alleges that it is the owner of the oil and gas leasehold estate in all of the NW/4 of Section 25, and all of the SE/4 of Section 23, Township 16 South, Range 35 East, Lea County, New Mexico, along with other lands, pursuant to two oil and gas leases ("the TMBR/Sharp leases") dated August 25, 1997, from Madeline Stokes and Erma Stokes Hamilton, respectively, to Ameristate Oil & Gas, Inc., recorded respectively in Book 827 at Page 127, and in Book 827 at Page 124, Deed Records of Lea County, New Mexico.

(13) Although the primary terms of the TMBR/Sharp leases have expired, TMBR/Sharp contends that the TMBR/Sharp leases have been maintained in force and effect by the drilling of and production from its Blue Fin 24 Well No. 1, located in the SW/4 SW/4 of Section 24, Township 16 South, Range 35 East, Lea County, New Mexico, on lands allegedly pooled with the lands covered by the TMBR/Sharp leases.

(14) Arrington claims that no legally effective pooling of the SW/4 SW/4 of Section 24 with any lands covered by the TMBR/Sharp leases ever occurred, and that the TMBR/Sharp leases have expired.

(15) Arrington claims that it is the owner of the oil and gas leasehold estate in all of the NW/4 of Section 25, and all of the SE/4 of Section 23, Township 16 South, Range 35 East, Lea County, New Mexico, along with other lands, pursuant to two oil and gas leases ("the Arrington leases") dated March 27, 2001, from Madeline Stokes and Erma Hamilton, respectively, to James D. Huff, recorded respectively in Book 1084 at Page 282, and in Book 1084 at Page 285, Deed Records of Lea County, New Mexico.

(16) The Arrington APDs and the TMBR/Sharp APDs both identified the Townsend Mississippian North Gas Pool as the pool to which the well would be dedicated.