

well in the secondary term. *See Exhibits "E," "F," and "G"*. Therefore, in order to obtain its drilling permit, TMBR/Sharp pooled the required 320 acres (including 40 acres out of the Original Stokes Leases) to form a unit. *See Exhibits "E," "F," and "G"*. Because TMBR/Sharp conducted drilling operations on lands pooled with the Original Stokes Leases, production was obtained, and there has been no cessation of operations on the pooled Leases for more than 180 consecutive days the Original Stokes Leases are still valid. *See supra Section II.B.* In short, TMBR/Sharp did "that thing" permitted by the Original Stokes Leases to save them.

TMBR/Sharp exercised its power "to pool or combine" 40 acres of the Original Stokes Leases with other acreage to form a 320-acre pooled unit, which is the size unit required for a gas well by the OCD,<sup>3</sup> in the Townsend; Mississippian, North (Gas) Pool. *See Exhibits "F" and "G"*. TMBR/Sharp exercised its pooling power by filing a plat designation outlining the pooled acreage with the OCD in Lea County, New Mexico, the county of the premises covered by the Leases. *See Exhibit "F"*. The OCD approved the drilling permit and thus, the plat designation, during the primary term of the Original Stokes Leases. Drilling commenced before the expiration of the primary term and continued across it. *See supra Section II.B.* After the completion of the Well, a reconfirming unit designation was filed in the Deed Records of Lea

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<sup>3</sup> *See 19 NMAC 15.C.104.B(1)(a)* which provides, in pertinent part, "...any such wildcat gas well which is projected to the Wolfcamp or older formations shall be located on a drilling tract consisting of 320 surface contiguous acres, more or less, ...". The Well is a wildcat well as defined in New Mexico Oil Conservation Division Rule 104.A. *See Exhibit "D"*. The Well was drilled to the Mississippian Formation, which is older than the Wolfcamp Formation as provided in New Mexico Oil Conservation Division Rule 104.B(1)(a). *See Exhibit "D"*.