

B. TMBR/Sharp Filed a Written Unit Designation Both Before and After Drilling a Well; Either of Which Satisfy the Terms of the Original Stokes Leases.

In the matter before this Court, the Original Stokes Leases, i.e., the contract, require TMBR/Sharp to "...file written unit designations in the county in which the premises are located..." *See Exhibits "A" and "B" at paragraph 5.* In the present matter, it is undisputed that the TMBR/Sharp filed a written unit designation in Lea County with the OCD on November 17, 2000. *See Exhibit "F".* Therefore, TMBR/Sharp has satisfied paragraph 5 of the Original Stokes Leases as a matter of law by filing Form C-102. However, TMBR/Sharp's subsequent filing in the Records of Lea County after the well was completed also, independently, satisfies the "filing" requirements of the Original Stokes Leases.

The language of the Original Stokes Leases, Paragraph 5, is clear:

. . . Lessee shall file a written unit designation in the county in which the premises are located and such units may be designated from time to time and *either before or after* the completion of wells. . .

See Exhibits "A" and "B" at Paragraph 5. (emphasis added).

It is undisputed that TMBR/Sharp properly filed a Notice of Unit Designation with the OCD prior to the drilling of the Well. This alone would have satisfied the filing requirements of the Original Stokes Leases. However, this provision is also satisfied in that TMBR/Sharp filed a Unit Designation in the Records of Lea County, New Mexico after, it drilled the Well. *See Exhibit "G".* As such, TMBR/Sharp has satisfied both possible means, i.e. before or after the well was drilled, of filing its Unit Designation.