

be reasonably necessary to carry out the purposes of this act,
whether or not indicated or specified in any section hereof.

19 NMAC 15.

Rule 10 NMAC 15.N.1101.A requires that “before commencing drilling...the operator must **file** a permit to do so.” (emphasis added) (This is a Form C-101 and it must be accompanied by a Form C-102 - Well Location and Acreage Dedication Plat). Form C-102 filed by TMBR/Sharp designated the West half of Section 24, Township 16S, Range 35E, being 320 acres, as the acreage dedicated to the Well. *See Exhibit “F”*. The acreage included 40 acres under the Original Stokes Leases. Division Rule 19 NMAC 15.N.1102.A states: “Form C-102 is a dual purpose form used to show the exact location of the well and **the acreage dedicated thereto...**”. Rule 19 NMAC 15.N.1102.B says all information required on Form C-102 shall be filled out and certified by the operator of the well except for the well location on this plat which is certified by a professional surveyor or engineer. Thus, Form C-102 is a public filing describing the acreage dedicated to the Well. *See Exhibit “F”*.

Under the definition of pooling adopted by the New Mexico Supreme Court in *Uhden*, a written dedication of acreage filed with the OCD was an unequivocal act of pooling or combining leases with other lands to form a unit which satisfied the OCD rules and regulations and the Original Stokes Leases’ requirement to pool into a unit that was within the standard unit size authorized by the OCD. So long as drilling commenced on that dedicated pooled acreage prior to the expiration of the primary term and continued thereafter, TMBR/Sharp has satisfied the terms of the Original Stokes Leases’ terms, thus perpetuating the Leases. The only other requirement which is also satisfied by Form C-102 is a “filing” of the unit designation.

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, required TMBR/Sharp as part of the pooling process 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 District I Office of 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 in Lea County. However, TMBR/Sharp's subsequent filing in the County Clerk's Records of Lea County, New Mexico 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 District I Office of 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 County Clerk's 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.