

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

**THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLUG (7)
SEVEN WELLS, IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE
TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS IN
DEFAULT OF COMPLIANCE BY KELLY H. BAXTER OR HIS SURETY, AND
ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND, LEA
COUNTY, NEW MEXICO.**

CASE NO. 12792

**MOTION TO RE-OPEN CASE NO. 12792 AND ENTER AN ORDER ASSESSING
CIVIL PENALTIES AND FINDING KELLY H. BAXTER IN VIOLATION OF
AN ORDER REQUIRING CORRECTIVE ACTION**

1. On May 15, 2003, the Oil Conservation Commission issued Order No. R-11840-A in the above-captioned case ordering Kelly H. Baxter ("Operator") to complete the following corrective actions by November 15, 2003:

A) plug and abandon the following wells:

| | |
|----------------|--------------|
| State FP #001 | 30-025-21925 |
| State Wes #001 | 30-025-28227 |

B) perform any remaining matters (such as site clean up, remediation, etc.) and properly complete and file with the Oil Conservation Division (OCD) remaining documentation concerning the plugging and abandonment of the following wells:

| | |
|-----------------|--------------|
| State 26 #001 | 30-025-27961 |
| Wallen Fee #001 | 30-025-25238 |
| Wallen Fee #002 | 30-015-25283 |

2. Order No. R-11840-A further provided, "should the operator not properly plug and abandoned (sic) the above-referenced wells by November 15, 2003, the Division shall file a supplemental proceeding that seeks imposition of civil penalties upon the operator pursuant to NMSA Section 70-2-31(A)."

3. Order No. R-11840-A also provided that the Oil Conservation Commission would retain jurisdiction of the case for the entry of such further orders as it may deem necessary.

4. Operator did not seek rehearing of Order No. R-11840-A, and did not appeal Order No. R-11840-A. The Order is now final.

5. OCD records indicate that the State FP #001 and the State Wes #001 have not been plugged.

6. The records of the OCD do not indicate that the sites of the State 26 #001, Wallen Fee #001 and Wallen Fee #002 have been remediated and released, and the OCD well files do not contain complete documentation from the Operator concerning the plugging and abandonment of these wells.

7. OCD Rule 40.A [19.15.1.40.A NMAC] provides, in relevant part, that a well operator is in compliance with its provisions if the operator “is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action.”

8. NMSA 1978, section 70-2-31(A) provides, in relevant part, that “[a]ny person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation.”

WHEREFORE, the Enforcement and Compliance Manager hereby applies to the Oil Conservation Commission to reopen Case 12792, and enter an order after notice and hearing:

- A. Determining that Kelly H. Baxter is in violation of Order R-11840-A's requirements for corrective action;
- B. Determining that Kelly H. Baxter knowingly and willfully failed to comply with Order R-11840-A and assessing appropriate civil penalties; and
- C. For such other and further relief as the Commission deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 3rd day of April, 2006 by



Gail MacQuesten
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Certificate of Service

I hereby certify that I served this motion by certified mail, return receipt requested, to:

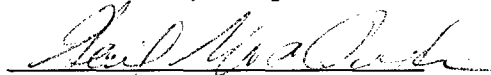
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on this 25th day of April, 2006.

A handwritten signature in cursive script, appearing to read "Gail MacQuesten", written over a horizontal line.

Gail MacQuesten

Case No. 12792. Application of the New Mexico Oil Conservation Division for an order requiring Kelly H. Baxter to plug seven wells in Lea County, New Mexico. The Applicant moves the Oil Conservation Commission to reopen Case No. 12792 to issue an order assessing civil penalties and finding Kelly H. Baxter to be in violation of Order R-11840-A, issued in Case No. 12792, requiring corrective action as to the following wells: State FP #001, 30-025-21925, 0-23-016S-33E; State Wes #001, 30-025-28227, A-20-14S-33E; State 26 #001, 30-025-27961, B-26-12S-32E; Wallen Fee #001, 30-025-25238, D-28-20S-34E; Wallen Fee #002, 30-015-25283, C-28-20S-34E. The Wallen Fee #001 and #002 are located approximately 20 miles southwest of Hobbs, New Mexico. The remaining wells are located approximately 20 to 25 miles west and northwest of Lovington, New Mexico.