

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLG SEVEN (7) 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.

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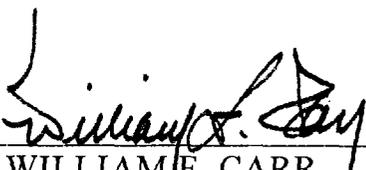
CASE NO. 1792
ORDER NO. R-11840

APPLICATION FOR HEARING DE NOVO

COMES NOW KELLY H. BAXTER, a party adversely affected by Order No. R-11840, and hereby applies for a hearing *De Novo* before the full Commission, pursuant to NMSA 1978, Section 70-2-13.

Respectfully submitted,

HOLLAND & HART, LLP

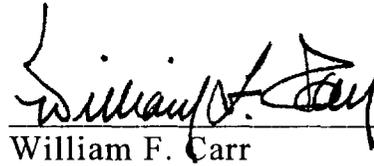
By: 
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Santa Fe, New Mexico 87504
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ATTORNEYS FOR KELLY H. BAXTER

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Hearing *De Novo* was hand-delivered, delivered by facsimile and/or mailed this 31st day of October 2002 to the following:

Stephen Ross, Esq.
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505



William F. Carr

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**CASE 12792: De Novo (Continued from December 13, 2002,
Commission Hearing)**

Application of the New Mexico Oil Conservation Division for an order requiring Kelly H. Baxter to properly plug seven (7) wells, imposing civil penalties in 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. The applicant seeks an order requiring Kelly H. Baxter, the operator of seven (7) inactive wells in Lea County, New Mexico, to properly plug and abandon the same, imposing civil penalties in event of failure to comply, authorizing the Division to plug said wells if the operator or its sureties fail to do so, forfeiting operator's plugging bond, and providing for such other relief as the Director deems appropriate. The affected wells are the following:

<u>API No.</u>	<u>Well Name & No.</u>	<u>UL</u>	<u>Sec</u>	<u>Twp</u>	<u>Rng</u>
30-025-21925	State FP No. 1	O	23	16S	33E
30-025-25238	Wallen Fee No. 1	D	28	20S	34E
30-025-25283	Wallen Fee No. 2	C	28	20S	34E
30-025-27961	State 26 No. 1	B	26	12S	32E
30-025-28227	State WES No. 1	A	20	14S	33E
30-025-29664	Speight No. 1	A	15	13S	38E
30-025-29935	Speight No. 2	H	15	13S	38E

Upon application of Kelly H. Baxter, this case will be heard De Novo pursuant to the provisions of Rule 1220.

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

**CASE NO. 12792
ORDER NO. R-11840**

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.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 10 and September 5, 2002, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 8th day of October, 2002, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) Kelly H. Baxter is the current owner and operator of the following described (7) seven wells located in Lea County, New Mexico:

<u>API Number</u>	<u>Well Name & Number</u>	<u>Well Location</u>
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

(3) At this time, the New Mexico Oil Conservation Division ("Division") seeks an order directing the operator to plug the above-described wells in accordance with a Division-approved plugging program and, if the operator fails to do so, authorizing the

Division to proceed to plug and abandon these wells and to: (i) declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing; (ii) take necessary and appropriate measures to recover from Kelly H. Baxter any costs of plugging the subject wells in excess of the amount of the bond; and (iii) impose a fine on the operator for failure to comply with this order.

(4) This case was originally heard at the hearing held on January 10, 2002, at which time both the Division and Kelly H. Baxter were represented by counsel. At that time, the Division requested that this case be continued to the September 5, 2002 docket in order to provide Kelly H. Baxter additional time to bring the subject wells into compliance with Division rules.

(5) This case was subsequently heard on September 5, 2002 at which time the Division presented evidence to support its position. A representative of the Division's Hobbs District Office (District I) presented testimony via telephone. Additional testimony was presented by representatives of the Division's Santa Fe Office.

(6) Kelly H. Baxter did not appear at the hearing on September 5, 2002.

(7) The evidence presented demonstrates that the subject wells have not produced hydrocarbons and have been inactive for several years, and that no permit for temporary abandonment has been requested by the operator or approved by the Division.

(8) By virtue of the failure to use these wells for beneficial purposes or to have approved temporary abandonment permits, Kelly H. Baxter is presumed to have abandoned the subject wells.

(9) Correspondence between the Division and Kelly H. Baxter regarding the subject wells began in August 1998.

(10) The current condition of the wells is such that if action is not taken to properly plug and abandon the wells, waste will probably occur, correlative rights will also be violated, livestock and wildlife may be subject to harmful contaminants, and fresh waters may be in danger of contamination.

(11) Evidence was presented showing that Kelly H. Baxter has posted a surety (blanket plugging) bond in the amount of \$50,000.00 for all of his operations in the State of New Mexico in compliance with Sections 70-2-14, NMSA 1978 and Division Rule 101, which bond is conditioned upon compliance with the statutes of the State of New Mexico and the rules of the Division with respect to the proper plugging and abandonment of the wells operated by Kelly H. Baxter. Underwriters Indemnity Company is the surety on this

bond (Bond No. BO3872), executed January 18, 1993.

(12) In order to prevent waste and to adequately protect correlative rights and the environment, the seven (7) wells described in Finding No. (2) above should be plugged and abandoned by Kelly H. Baxter, in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before November 15, 2002.

(13) Should Kelly H. Baxter not meet this November 15, 2002 plugging obligation, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, and to recover from the operator the plugging costs incurred by the Division.

IT IS THEREFORE ORDERED THAT:

(1) Kelly H. Baxter is hereby ordered to plug and abandon the following-described seven (7) wells in Lea County, New Mexico on or before November 15, 2002.

<u>API Number</u>	<u>Well Name & Number</u>	<u>Well Location</u>
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	*Unit H, Section 15, T-13S, R-38E

(2) Prior to plugging and abandoning the above-described wells, Kelly H. Baxter shall obtain from the supervisor of the Division's Hobbs District Office an approved plugging program and shall notify the supervisor of the Division's Hobbs District Office of the date and time this work is to commence whereupon the Division may witness such work.

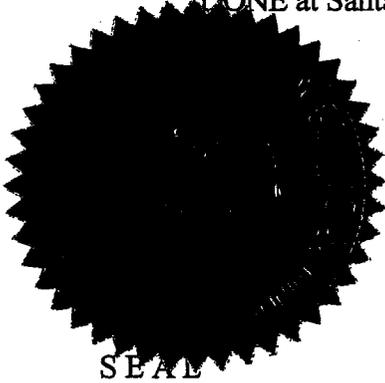
(3) Should Kelly H. Baxter fail or refuse to carry out such provisions in accordance with the terms of this order, the Division shall then take such actions as are necessary to: (i) plug and abandon these wells; (ii) declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing; and (iii) take necessary and appropriate measures to recover from Kelly H. Baxter any costs of plugging the subject wells in excess of the amount of the bond.

(4) Failure to comply with the provisions of this order shall subject Kelly H.

Baxter to a fine of \$1,000.00 per day per well until such work is completed (see Section 70-2-31, NMSA 1978).

(5) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Loi Wrottenbery
LOI WROTENBERY
Director