

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

2003 APR 31 PM 2 28

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

PRE-HEARING STATEMENT
MOTION TO RE-OPEN CASE NO. 12792

This entry of appearance and pre-hearing statement is submitted by the Applicant, the Oil Conservation Division.

APPEARANCES

APPLICANT
Oil Conservation Division

APPLICANT'S ATTORNEY
Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
FAX: 476-3462

STATEMENT OF THE CASE

The Oil Conservation Division (OCD) moves to re-open Case No. 12792 for entry of an order finding Kelly H. Baxter (Baxter) to be in violation of an order requiring corrective action, and imposing penalties for failing to comply with an order of the Oil Conservation Commission (OCC).

On May 15, 2003, the OCC issued Order No. R-11840-A in Case No. 12792, ordering Baxter to plug and abandon four wells, and to perform any remaining matters (such as site clean up, remediation, paperwork, etc.) as to three other wells with plugged wellbores. The OCC ordered Baxter to complete the work by November 15, 2003. In addition, the order provided that if Baxter did not complete the work, the OCD should file a supplemental proceeding seeking imposition of civil penalties.

In the three years since the issuance of Order No. R-11840-A, Baxter has transferred two of the unplugged wells to another operator. (Those wells remain unplugged.) The well files show no activity on the five wells that remain operated by Baxter.

The OCD is about to plug the two unplugged wells still operated by Baxter. At that time, Baxter will be in compliance with Rule 40, because it will have no wells on the Rule 40 inactive well list (the wellbores of the three other wells still operated by Baxter have been plugged).

The OCD seeks an order pursuant to Rule 40.A(2), finding Baxter to be in violation of an order requiring corrective action. Once the Rule 40.A(2) order is in place, the OCD will be able to deny certain privileges to Baxter until he obtains an order from the OCC declaring the order satisfied. The OCD will oppose release of the order if work remains to be done under the order or (if the OCD has performed the work required under the order) if Baxter has not reimbursed the OCD for costs incurred to complete the work.

In addition, the OCD seeks penalties for Baxter's failure to comply with Order No. R-11840-A.

APPLICANT'S PROPOSED EVIDENCE

WITNESS:
Daniel Sanchez, Enforcement and Compliance
Manager

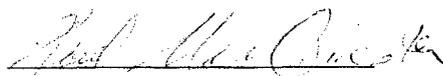
ESTIMATED TIME:
15 min.

EXHIBITS:
Attached.

PROCEDURAL MATTERS

None.

Respectfully submitted,
This 31st day of May, 2006 by



Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading, with exhibits attached, was served upon the following by first class mail this 31st day of May 2006:

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

And I hereby certify that a copy of the foregoing pleading, with exhibits attached, was faxed to the following this 31st day of May 2006:

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
FAX: (505) 983-6043



Gail MacQuesten

**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

**AFFIDAVIT OF SERVICE FOR
MOTION TO RE-OPEN CASE NO. 12792**

In accordance with Division Rule 1227.D [19.15.14.1227.D NMAC] and Rule 1210 (19.15.14.1210 NMAC) I hereby certify that notice of the June 15, 2006 hearing in the above-captioned case was mailed to the following by certified mail, return receipt requested, at least 20 days prior to the hearing date, with a copy of the motion and a copy of Order R-11840-A:

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

A copy of the notice, with enclosures, is attached as Exhibit 1. Copies of the return receipts are attached as Exhibit 2.


Gail MacQuesten

SUBSCRIBED AND SWORN to before me this 30th day of May 2006.

Notary Public

Dorothy Ph. H. ps

My Commission Expires:

4/2/07

**Before the OCC
Case No. 12792
Motion to Re-Open
Exhibit A**



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary

Mark E. Fesmire, P.E.
Director
Oil Conservation Division

April 25, 2006

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

Certified Mail No. 7002 3150 0004 4924 0267

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
e-mail: wcarr@hollandhart.com
(Attorney for Kelly H. Baxter)

Certified Mail No: 7002 3150 0004 4924 0274

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

Certified Mail No. 7002 3150 0004 4924 0281

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
AND VIA E-MAIL, WHERE INDICATED**

Re: Case No. 12792, 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.

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

Ladies and Gentlemen:

You are hereby notified that the New Mexico Oil Conservation Division has filed a motion seeking to re-open Case No. 12792 and enter an order assessing civil penalties and finding Kelly H. Baxter (Baxter) in violation of Order No. R-11840-A. A copy of Order R-11840-A and a copy of the motion are enclosed.

A hearing on this application will take place before the Oil Conservation Commission on Thursday, June 15, 2006 at 9:00 a.m., in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing you will have an opportunity to show cause why an order should not be entered as requested in the motion. Please note that any party who intends to present evidence at the hearing on this motion should file a pre-hearing statement pursuant to 19.15.14.1211 NMAC.

If an order is issued as requested in the motion, Baxter will be in violation of 19.15.1.40 NMAC (Rule 40). If an operator is in violation of Rule 40, the Oil Conservation Division may deny the operator applications for permits to drill (19.15.3.102.C

NMAC); may deny transfers of wells to the operator (19.15.3.100.E NMAC); may deny registration to certain entity related to the operator (19.15.3.100.B NMAC); must deny permits for injection (19.15.9.701 NMAC); and must deny requests for allowables and authorization to transport (19.15.13.1104 NMAC).

This notice is being sent to Underwriters Indemnity Company because Baxter posted a surety bond in the amount of \$50,000, No. B03872 issued by Underwriters Indemnity Company to secure its obligation to plug the wells that are the subject of Order R-11840-A.

Inquiries concerning this application may be directed to the undersigned in the Santa Fe office of the Division at (505) 476-3451.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Gail MacQuesten".

Gail MacQuesten
Assistant General Counsel

cc: Chris Williams, OCD District 1
Daniel Sanchez; OCD Enforcement and Compliance Manager

**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
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505)-476-3451

Attorney for The New Mexico Oil
Conservation Division

Certificate of Service

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

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

William F. Carr

Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
e-mail:wcarr@hollandhart.com
(Attorney for Kelly H. Baxter)

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

on this 25th day of April, 2006.



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.

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 12792

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.

ORDER NO. R-11840-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 at Santa Fe, New Mexico on the application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring Kelly H. Baxter (hereinafter referred to as "the operator" or "Kelly H. Baxter") to properly plug and abandon inactive wells in Lea County, for an order authorizing the Division to plug the wells in the event the operator or its surety fails to do so, providing for forfeiture of the plugging bond if necessary and requesting assessment of civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 15th day of May, 2003,

FINDS,

1. Notice has been given of the application and the hearing of this matter, and the Commission has jurisdiction of the parties and the subject matter herein.
2. This matter is before the Commission on application of the operator for review *de novo*.

3. This matter concerns seven (7) inactive wells in Lea County, New Mexico operated by Kelly H. Baxter:

<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*

4. The Division originally sought plugging and abandonment of all the wells listed in paragraph 3. The Division now seeks plugging and abandonment of four wells (those marked in paragraph three with an asterisk), as the remaining wells have been plugged and abandoned. The Division seeks forfeiture of the relevant financial assurance in the event the operator fails to plug and abandon the remaining four wells, and seeks civil penalties for failure to comply with the lawful orders and directives of the Division, but the Division suggests that such penalties be suspended if the operator plugs the remaining four wells within a reasonable time.

5. The Division appeared through its counsel and presented evidence. The operator appeared through his counsel who made a statement on his behalf.

6. The Division's filing in this matter originates from a project of the Division referred to as the "Inactive Well Project." This project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

7. Rule 201 of the rules and regulations of the Division specifies that any well that is no longer usable for beneficial purposes or that has been continuously inactive for a period of one year or that has not produced sixty days after the suspension of drilling operations, must be properly plugged or temporarily abandoned:

B. A well shall be either plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after: (1) a sixty (60) day period following suspension of drilling operations, or (2) a determination that a well is no longer usable for beneficial purposes, or (3) a period of one (1) year in which a well has been continuously inactive.

19.15.4.201 (B) NMAC (12-14-01).

8. The evidence presented by the Division indicates that the operator reported no production from any of the wells listed above since 1998 and no production reports were

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CASE NO. 12792

**AFFIDAVIT OF SERVICE FOR
MOTION TO RE-OPEN CASE NO. 12792**

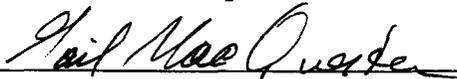
In accordance with Division Rule 1227.D [19.15.14.1227.D NMAC] and Rule 1210 (19.15.14.1210 NMAC) I hereby certify that notice of the June 15, 2006 hearing in the above-captioned case was mailed to the following by certified mail, return receipt requested, at least 20 days prior to the hearing date, with a copy of the motion and a copy of Order R-11840-A:

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

A copy of the notice, with enclosures, is attached as Exhibit 1. Copies of the return receipts are attached as Exhibit 2.


Gail MacQuesten

SUBSCRIBED AND SWORN to before me this 30th day of May 2006.

Notary Public

Dorothy Phillips

My Commission Expires:

4/2/07

**Before the OCC
Case No. 12792
Motion to Re-Open
Exhibit A**



NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BILL RICHARDSON
Governor
Joanna Prukop
Cabinet Secretary

Mark E. Fesmire, P.E.
Director
Oil Conservation Division

April 25, 2006

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

Certified Mail No. 7002 3150 0004 4924 0267

William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
e-mail:wcarr@hollandhart.com
(Attorney for Kelly H. Baxter)

Certified Mail No: 7002 3150 0004 4924 0274

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

Certified Mail No. 7002 3150 0004 4924 0281

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED.
AND VIA E-MAIL, WHERE INDICATED

Re: Case No. 12792, 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.

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

Ladies and Gentlemen:

You are hereby notified that the New Mexico Oil Conservation Division has filed a motion seeking to re-open Case No. 12792 and enter an order assessing civil penalties and finding Kelly H. Baxter (Baxter) in violation of Order No. R-11840-A. A copy of Order R-11840-A and a copy of the motion are enclosed.

A hearing on this application will take place before the Oil Conservation Commission on Thursday, June 15, 2006 at 9:00 a.m., in Porter Hall, First Floor, 1220 South St. Francis Drive in Santa Fe, New Mexico. At that hearing you will have an opportunity to show cause why an order should not be entered as requested in the motion. Please note that any party who intends to present evidence at the hearing on this motion should file a pre-hearing statement pursuant to 19.15.14.1211 NMAC.

If an order is issued as requested in the motion, Baxter will be in violation of 19.15.1.40 NMAC (Rule 40). If an operator is in violation of Rule 40, the Oil Conservation Division may deny the operator applications for permits to drill (19.15.3.102.C

Oil Conservation Division * 1220 South St. Francis Drive * Santa Fe
Phone: (505) 476-3440 * Fax (505) 476-3462 * <http://www.enr>

Exhibit 1
To
Affidavit of Service

NMAC); may deny transfers of wells to the operator (19.15.3.100.E NMAC); may deny registration to certain entity related to the operator (19.15.3.100.B NMAC); must deny permits for injection (19.15.9.701 NMAC); and must deny requests for allowables and authorization to transport (19.15.13.1104 NMAC).

This notice is being sent to Underwriters Indemnity Company because Baxter posted a surety bond in the amount of \$50,000, No. B03872 issued by Underwriters Indemnity Company to secure its obligation to plug the wells that are the subject of Order R-11840-A.

Inquiries concerning this application may be directed to the undersigned in the Santa Fe office of the Division at (505) 476-3451.

Very truly yours,



Gail MacQuesten
Assistant General Counsel

cc: Chris Williams, OCD District 1
Daniel Sanchez, OCD Enforcement and Compliance Manager

**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.

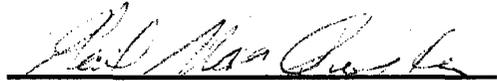
7. OCD Rule 40.A [19.15.1.40.A NMAC] provides, in relevant part, that a well operator is in compliance with its provisions if the operator "is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action."

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 25th day of April, 2006 by



Gail MacQuesten
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505)-476-3451

Attorney for The New Mexico Oil
Conservation Division

Certificate of Service

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

Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

William F. Carr

Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
e-mail:wcarr@hollandhart.com
(Attorney for Kelly H. Baxter)

Underwriters Indemnity Company
8 Greenway Plaza, Suite 400
Houston, TX 77046

on this 25th day of April, 2006.



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.

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 12792

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.

ORDER NO. R-11840-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 at Santa Fe, New Mexico on the application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring Kelly H. Baxter (hereinafter referred to as "the operator" or "Kelly H. Baxter") to properly plug and abandon inactive wells in Lea County, for an order authorizing the Division to plug the wells in the event the operator or its surety fails to do so, providing for forfeiture of the plugging bond if necessary and requesting assessment of civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 15th day of May, 2003,

FINDS,

1. Notice has been given of the application and the hearing of this matter, and the Commission has jurisdiction of the parties and the subject matter herein.
2. This matter is before the Commission on application of the operator for review *de novo*.

3. This matter concerns seven (7) inactive wells in Lea County, New Mexico operated by Kelly H. Baxter:

<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*

4. The Division originally sought plugging and abandonment of all the wells listed in paragraph 3. The Division now seeks plugging and abandonment of four wells (those marked in paragraph three with an asterisk), as the remaining wells have been plugged and abandoned. The Division seeks forfeiture of the relevant financial assurance in the event the operator fails to plug and abandon the remaining four wells, and seeks civil penalties for failure to comply with the lawful orders and directives of the Division, but the Division suggests that such penalties be suspended if the operator plugs the remaining four wells within a reasonable time.

5. The Division appeared through its counsel and presented evidence. The operator appeared through his counsel who made a statement on his behalf.

6. The Division's filing in this matter originates from a project of the Division referred to as the "Inactive Well Project." This project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

7. Rule 201 of the rules and regulations of the Division specifies that any well that is no longer usable for beneficial purposes or that has been continuously inactive for a period of one year or that has not produced sixty days after the suspension of drilling operations, must be properly plugged or temporarily abandoned:

B. A well shall be either plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after: (1) a sixty (60) day period following suspension of drilling operations, or (2) a determination that a well is no longer usable for beneficial purposes, or (3) a period of one (1) year in which a well has been continuously inactive.

19.15.4.201 (B) NMAC (12-14-01).

8. The evidence presented by the Division indicates that the operator reported no production from any of the wells listed above since 1998 and no production reports were

filed at all on any of the wells in 1997, and that no permit for temporary abandonment has been requested by the operator or approved by the Division.

9. Division employees attempted to persuade the operator to properly plug and abandon the wells. Correspondence between the Division and the operator regarding the wells began in August 1998. Prior to the hearing before the Division, Division employees contacted the operator on numerous occasions, but the operator was essentially unresponsive.

10. Despite his failure to communicate with Division personnel, the operator has nevertheless made some attempts to correct the situation. Of the wells that are the subject of the Division's application, three, the Wallen Fee No. 1, the Wallen Fee No. 2 and the State "26" No. 1 were voluntarily plugged and abandoned prior to the date of the hearing. Division personnel witnessed the operation and were apparently satisfied with the quality of the work.

11. The operator also apparently performed some work on the Speight No. 1 and the State "FP" several years ago in an attempt to bring those wells into compliance as well. However, the work was never completed and required testing was not accomplished.

12. The operator's statement to the Commission during the hearing of this matter (made on the operator's behalf by its attorney) seems to indicate that he understands his obligations to plug the remaining wells and intends to do so, but needs additional time to complete the work. The operator's statement indicates that a contractor was hired to complete the plugging and abandonment but the contractor (who also performs work under contract with the State on occasions) had not plugged the wells as of the date of the hearing, and the contractor was unwilling to commit to a date certain when the work could be completed. Another contractor contacted by the operator could possibly do the work more quickly, but that contractor is unable to pull casing, and the operator desires to recover the casing so as to ameliorate the cost of plugging. The operator suggested in his statement that the Commission issue an order that provides him a specified time to complete the remaining work, and also suggests that penalties not be imposed if he complies.

13. The operator's statement indicates that the operator agrees the wells should be plugged and abandoned. It appears from the statement that the operator also agrees that the wells are no longer usable for beneficial purposes. See 19.15.4.201(B)(2) NMAC. There being no dispute concerning the plugging and abandonment of these wells, they should be plugged and abandoned forthwith. The dispute with the operator's present plugging contractors should not affect this finding. A Division witness testified that other plugging contractors exist besides those referred to by the operator; if the present contractors will not agree to perform the work, other contractors should be arranged to complete it. The four (4) wells described should be plugged and abandoned by the operator in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before November 15, 2003.

14. The evidence presented by the Division indicates that the operator has on deposit with the Division a \$50,000 blanket plugging bond, No. B03872, issued by Underwriter's Indemnity. The blanket plugging 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 the operator. The record of these proceedings indicates that Underwriter's Indemnity was served with notice of these proceedings.

15. Should the operator not properly plug and abandon the above-referenced wells by November 15, 2003, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

16. Should the operator not properly plug and abandoned the above-referenced wells by November 15, 2003, the Division should file a supplemental proceeding that seeks imposition of civil penalties upon the operator pursuant to NMSA Section 70-2-31(A).

IT IS THEREFORE ORDERED THAT :

1. The operator is hereby ordered to plug and abandon the State "FP" No. 1, the State "WES" No. 1, the Speight No. 1 and the Speight No. 2, described more fully above, no later than November 15, 2003. In addition, the operator is hereby ordered to perform any remaining matters (such as site clean up, remediation, etc.) and properly complete and file with the Division remaining documentation concerning the plugging and abandonment of the State "26" No. 1, the Wallen Fee No. 1 and the Wallen Fee No. 2, by this date.

2. Prior to plugging and abandoning the above-described wells, the operator 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 so that the Division may witness the work.

3. Should the operator fail or refuse to carry out such provisions in accordance with the terms of this Order, the Division Director shall then take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

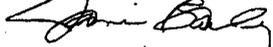
4. In addition, should the operator not properly plug and abandoned the above-referenced wells by November 15, 2003, the Division shall file a supplemental proceeding that seeks imposition of civil penalties upon the operator pursuant to NMSA Section 70-2-31(A).

5. Jurisdiction of this case is retained for the entry of such further orders as the

Commission may deem necessary.

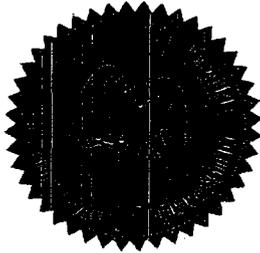
DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION


JAMI BAILEY, MEMBER


ROBERT LEE, MEMBER


LORI WROTENBERY, CHAIR



SEAL

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:
Kelly H. Baxter
P.O. Box 1649
Austin, TX 78767

April 25, 2006 Ltr.

2. Article Number
(Transfer from service label) 7002 3150 0004 4924 0267

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X *[Signature]*

B. Received by (Printed Name) *[Signature]* C. Date of Delivery

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

**U.S. Postal Service™
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OFFICIAL USE

Postage \$
 Certified Fee
 Return Receipt Fee (Endorsement Required)
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees \$

Postmark Here
APR 26 2006
SANTA FE NM 87605
CORONADO STATION

Sent To Kelly H. Baxter
 Street, Apt. No., or PO Box No. P.O. Box 1649
 City, State, ZIP+4

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:
William F. Carr
Holland & Hart, LLP
P.O. Box 2208
Santa Fe, NM 87504-2208

April 25, 2006 Ltr.

Article Number
(Transfer from service label) 7002 3150 0004 4924 0274

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X *[Signature]*

B. Received by (Printed Name) *[Signature]* C. Date of Delivery

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

**U.S. Postal Service™
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OFFICIAL USE

Postage \$
 Certified Fee
 Return Receipt Fee (Endorsement Required)
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees \$

Postmark Here
APR 26 2006
SANTA FE NM 87605
CORONADO STATION

Sent To William F. Carr
 Street, Apt. No., or PO Box No. P.O. Box 2208
 City, State, ZIP+4 Santa Fe, NM 87504-2208

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:
Underwriters Indemnity Co.
8 Greenway Plaza, Suite 400
Houston, TX 77046

April 25, 2006 Ltr.

Article Number
(Transfer from service label) 7002 3150 0004 4924 0281

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
 X *[Signature]*

B. Received by (Printed Name) *[Signature]* C. Date of Delivery *05/04/06*

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

**U.S. Postal Service™
 CERTIFIED MAIL™ RECEIPT**
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For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$
 Certified Fee
 Return Receipt Fee (if Required)
 Restricted Delivery Fee (if Required)
 Total Postage & Fees \$

Postmark Here
APR 26 2006
SANTA FE NM 87605
CORONADO STATION

Sent To Underwriters Indemnity Company
 Street, Apt. No., or PO Box No. 8 Greenway Plaza, Suite 400
 City, State, ZIP+4

Exhibit 2
To
Affidavit of Service

Well List

12419 KELLY H BAXTER

TOTAL WELL COUNT:5

PRINTED ON:TUESDAY, MAY 30, 2006

Property	Well Name	Lease Type	ULSTR	OCD UL	API	Well Type	Pool	Last Prod/Inj	Oil POD	Gas POD
1813	STATE 26 #001	S	B-26-12S-32E	B	30-025-27961	S				
16301	STATE FP #001	S	O-23-16S-33E	O	30-025-21925	O	35530 KEMNITZ;LOWER WOLFCAMP	1/1992	490910	490930
1814	STATE WES #001	S	A-20-14S-33E	A	30-025-28227	O	55120 SAUNDERS;PERMO UPPER PENN	12/1992	518410	518430
14966	WALLEN FEE #001	P	D-28-20S-34E	D	30-025-25238	O		10/1993		
	WALLEN FEE #002	P	C-28-20S-34E	C	30-025-25283	O		12/1994		

Before the OCC
Case No. 12792
Motion to Re-Open
Exhibit B

Submit 3 Copies To Appropriate District Office
 District I
 1625 N. French Dr., Hobbs, NM 88240
 District II
 1301 W. Grand Ave., Artesia, NM 88210
 District III
 1000 Rio Brazos Rd., Aztec, NM 87410
 District IV
 1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
 Energy, Minerals and Natural Resources

Form C-103
 Revised June 10, 2003

OIL CONSERVATION DIVISION
 1220 South St. Francis Dr.
 Santa Fe, NM 87505

WELL API NO. 30-025-27961
5. Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name State 26
8. Well Number 1
9. OGRID Number 12419
10. Pool name or Wildcat

SUNDRY NOTICES AND REPORTS ON WELLS
 (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well:
 Oil Well Gas Well Other SWD

2. Name of Operator
 Kelly H Baxter

3. Address of Operator
 PO Box 1649 Austin TX 78767

4. Well Location
 Unit Letter B : 660 feet from the N line and 2310 feet from the E line
 Section 26 Township 12 Range 32E NMPM County LEA

11. Elevation (Show whether DR, RKB, RT, GR, etc.)
 4326

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:	SUBSEQUENT REPORT OF:
PERFORM REMEDIAL WORK <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>
PLUG AND ABANDON <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>
CHANGE PLANS <input type="checkbox"/>	PLUG AND ABANDONMENT <input checked="" type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	CASING TEST AND CEMENT JOB <input type="checkbox"/>
MULTIPLE COMPLETION <input type="checkbox"/>	OTHER: <input type="checkbox"/>
OTHER: <input type="checkbox"/>	

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 1103. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Plugged 11/14/02. Plugging witnessed by OCD.

Approved as to plugging of the Well Bore.
 Liability under bond is retained until surface restoration is completed.

This report done by Oil Conservation Division

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE _____ TITLE _____ DATE _____

Type or print name _____ E-mail address: _____ Telephone No. _____

(This space for State use)
Gary W. Wink

APPROVED BY GARY W. WINK
 Conditions of approval: REPRESENTATIVE II/STAFF MANAGER

AUG 29 2003
 Before the OCC
 Case No. 12792
 Motion to Re-Open
 Exhibit C

Submit 3 Copies
to Appropriate
District Office

State of New Mexico
Energy, Minerals and Natural Resources Department

Form C-103
Revised 1-1-89

DISTRICT I
P.O. Box 1980, Hobbs, NM 88240

DISTRICT II
P.O. Drawer DD, Artesia, NM 88210

DISTRICT III
1000 Rio Brazos Rd., Aztec, NM 87410

OIL CONSERVATION DIVISION

2040 Pacheco St.
Santa Fe, NM 87505

WELL API NO. 30-025-21925
Indicate Type of Lease STATE <input checked="" type="checkbox"/> FEE <input type="checkbox"/>
State Oil & Gas Lease No. 16301
Lease Name or Unit Agreement Name STATE FP
Well No. 1
Pool name or Wildcat KEMNITZ (WOLFCAMP IOWER)

SUNDRY NOTICES AND REPORTS ON WELLS
(DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

Type of Well:
OIL WELL GAS WELL OTHER

Name of Operator
KELLY H. BAXTER

Address of Operator
PO BOX 1649, AUSTIN, TX 78767

Well Location
Unit Letter O : 660 Feet From The SOUTH Line and 1980 Feet From The EAST Line
Section 23 Township 16S Range 33E NMPM LEA County

Elevation (Show whether DF, RKB, RT, GR, etc.)
4190 DF

11 Check Appropriate Box to Indicate Nature of Notice, Report, or Other Data

NOTICE OF INTENTION TO:		SUBSEQUENT REPORT OF:	
PERFORM REMEDIAL WORK <input type="checkbox"/>	PLUG AND ABANDON <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input checked="" type="checkbox"/>	CHANGE PLANS <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>	PLUG AND ANBANDONMENT <input type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>		CASING TEST AND CEMENT JOB <input type="checkbox"/>	
OTHER: _____ <input type="checkbox"/>		OTHER: _____ <input type="checkbox"/>	

Describe Proposed or Completed Operations (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work) SEE RULE 1103.

Prep to run Mechanical Integrity test on October, 1, 2000 and set plug @ 10,660'.

THE COMMISSION MUST BE NOTIFIED 24 HOURS PRIOR TO THE BEGINNING OF PLUGGING OPERATIONS FOR THE C-103 TO BE APPROVED.

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE Becky Lindemood TITLE Agent DATE 08-29-00

TYPE OR PRINT NAME Becky Lindemood TELEPHONE NO. 915-687-1144

(This space for State Use)

APPROVED BY _____ TITLE _____

CONDITIONS OF APPROVAL, IF ANY:

Before the OCC
Case No. 12792
Motion to Re-Open
Exhibit D

5
C

Submit 5 Copies
 Appropriate District Office
DISTRICT I
 P.O. Box 1980, Hobbs, NM 88240
DISTRICT II
 P.O. Drawer DD, Artesia, NM 88210
DISTRICT III
 1000 Rio Brazos Rd., Aztec, NM 87410

State of New Mexico
 Energy, Minerals and Natural Resources Department

Form C-104
 Revised 1-1-89
 See Instructions
 at Bottom of Page

OIL CONSERVATION DIVISION
 P.O. Box 2088
 Santa Fe, New Mexico 87504-2088

**REQUEST FOR ALLOWABLE AND AUTHORIZATION
 TO TRANSPORT OIL AND NATURAL GAS**

I.

Operator Kelly H. Baxter	Well APN No. 30-015-28227
Address P.O. Box 11193, Midland, Texas 79702	
Reason(s) for Filing (Check proper box) <input checked="" type="checkbox"/> Other (Please explain) Effective 12/31/92	
New Well <input type="checkbox"/>	Change in Transporter of: Change Operator to Kelly H. Baxter
Recompletion <input type="checkbox"/>	Oil <input type="checkbox"/> Dry Gas <input type="checkbox"/>
Change in Operator <input type="checkbox"/>	Casinghead Gas <input type="checkbox"/> Condensate <input type="checkbox"/>
If change of operator give name and address of previous operator Pogo Producing Company, P.O. Box 10340, Midland, Texas 79702-7340	

II. DESCRIPTION OF WELL AND LEASE

Lease Name State Wes	Well No. 1	Pool Name, including Formation Saunders (Permo Upper Penn)	Kind of Lease <input checked="" type="checkbox"/> State, <input type="checkbox"/> Federal or Fee	Lease No. LG-5031
Location				
Unit Letter A	660	Feet From The North	Line and 660	Feet From The East
Section 20	Township 14 South	Range 33 East	NMPM, Lea	County

III. DESIGNATION OF TRANSPORTER OF OIL AND NATURAL GAS

Name of Authorized Transporter of Oil <input type="checkbox"/> or Condensate <input type="checkbox"/>	Address (Give address to which approved copy of this form is to be sent)
Name of Authorized Transporter of Casinghead Gas <input type="checkbox"/> or Dry Gas <input type="checkbox"/>	Address (Give address to which approved copy of this form is to be sent)
If well produces oil or liquids, give location of tanks.	Unit Sec. Twp. Rge. Is gas actually connected? When ?

If this production is commingling with that from any other lease or pool, give commingling order number:

IV. COMPLETION DATA

Designate Type of Completion - (X)	Oil Well	Gas Well	New Well	Workover	Deepen	Plug Back	Same Res'v	MIT Res'v
Date Spudded	Date Compl. Ready to Prod.		Total Depth		P.B.T.D.			
Elevations (DF, RKB, RT, GR, etc.)	Name of Producing Formation		Top Oil/Gas Pay		Tubing Depth			
Perforations					Depth Casing Shoe			

TUBING, CASING AND CEMENTING RECORD

HOLE SIZE	CASING & TUBING SIZE	DEPTH SET	SACKS CEMENT

V. TEST DATA AND REQUEST FOR ALLOWABLE OIL WELL (Test must be after recovery of total volume of load oil and must be equal to or exceed top allowable for this depth or be for full 24 hours.)

Date First New Oil Run To Tank	Date of Test	Producing Method (Flow, pump, gas lift, etc.)	
Length of Test	Tubing Pressure	Casing Pressure	Choke Size
Actual Prod. During Test	Oil - Bbls.	Water - Bbls.	Gas - MCF

GAS WELL

Actual Prod. Test - MCF/D	Length of Test	Bbls. Condensate/MMCF	Gravity of Condensate
Testing Method (pilot, back pr)	Tubing Pressure (Shut-in)	Casing Pressure (Shut-in)	Choke Size

VI. OPERATOR CERTIFICATE OF COMPLIANCE

I hereby certify that the rules and regulations of the Oil Conservation Division have been complied with and that the information given above is true and complete to the best of my knowledge and belief.

Signature: L. Johnston
 Printed Name: L. Johnston Agent
 Date: 1/18/93 Title: (915) 682-5492
 Telephone No.

OIL CONSERVATION DIVISION
FEB 01 1993
 Date Approved _____
 By ORIGINAL SIGNED BY JERRY SEXTON
 DISTRICT I SUPERVISOR
 Title _____

- INSTRUCTIONS:** This form is to be filed in compliance with Rule 1104
- 1) Request for allowable for newly drilled or deepened well must be accompanied by tabulation of deviation tests taken in accordance with Rule 111.
 - 2) All sections of this form must be filled out for allowable on new and recompleted wells.
 - 3) Fill out only Sections I, II, III, and VI for changes of operator, well name or number, transporter, or other such changes.
 - 4) Separate Form C-104 must be filed for each pool in multiply completed wells.

**Before the OCC
 Case No. 12792
 Motion to Re-Open
 Exhibit E**

Submit 3 Copies To Appropriate District Office
 District I
 1625 N. French Dr., Hobbs, NM 88240
 District II
 1301 W. Grand Ave., Artesia, NM 88210
 District III
 1000 Rio Brazos Rd., Aztec, NM 87410
 District IV
 1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
 Energy, Minerals and Natural Resources

Form C-103
 Revised June 10, 2003

OIL CONSERVATION DIVISION
 1220 South St. Francis Dr.
 Santa Fe, NM 87505

WELL API NO. 30-025-25238
5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name Wallen Fee
8. Well Number 1
9. OGRID Number 12419
10. Pool name or Wildcat

SUNDRY NOTICES AND REPORTS ON WELLS
 (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well:
 Oil Well Gas Well Other

2. Name of Operator
 Kelly H Baxter

3. Address of Operator
 PO Box 1649 Austin TX 78767

4. Well Location
 Unit Letter D : 330 feet from the N line and 990 feet from the W line
 Section 28 Township 20 Range 34E NMPM County LEA

11. Elevation (Show whether DR, RKB, RT, GR, etc.)

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:		SUBSEQUENT REPORT OF:	
PERFORM REMEDIAL WORK <input type="checkbox"/>	PLUG AND ABANDON <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	CHANGE PLANS <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>	PLUG AND ABANDONMENT <input checked="" type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	MULTIPLE COMPLETION <input type="checkbox"/>	CASING TEST AND CEMENT JOB <input type="checkbox"/>	
OTHER: <input type="checkbox"/>		OTHER: <input type="checkbox"/>	

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 1103. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Plugged 11/13/02. Plugging witnessed by OCD.

approved as to plugging of the Well Bore.
 liability under bond is retained until
 surface restoration is completed.

This report done by Oil Conservation Division
 I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE _____ TITLE _____ DATE _____

Type or print name _____ E-mail address: _____ Telephone No. _____

(This space for State use)
 APPROVED BY GARY W. WINK
 Conditions of approval, if any. FIELD REPRESENTATIVE II/STAFF MANAGER

AUG 29 2003
 Before the OCC
 Case No. 12792
 Motion to Re-Open
 Exhibit F

Submit 3 Copies To Appropriate District Office
 District I
 1625 N. French Dr., Hobbs, NM 88240
 District II
 1301 W. Grand Ave., Artesia, NM 88210
 District III
 1000 Rio Brazos Rd., Aztec, NM 87410
 District IV
 1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico
 Energy, Minerals and Natural Resources

Form C-103
 Revised June 10, 2003

OIL CONSERVATION DIVISION
 1220 South St. Francis Dr.
 Santa Fe, NM 87505

WELL API NO. 30-025-25283
5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name Wallen Fee
8. Well Number 2
9. OGRID Number 12419
10. Pool name or Wildcat
11. Elevation (Show whether DR, RKB, RT, GR, etc.)

SUNDRY NOTICES AND REPORTS ON WELLS
 (DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well:
 Oil Well Gas Well Other

2. Name of Operator
 Kelly H Baxter

3. Address of Operator
 PO Box 1649 Austin TX 78767

4. Well Location
 Unit Letter C : 330 feet from the N line and 1650 feet from the W line
 Section 28 Township 20 Range 34E NMPM County LEA

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:		SUBSEQUENT REPORT OF:	
PERFORM REMEDIAL WORK <input type="checkbox"/>	PLUG AND ABANDON <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	CHANGE PLANS <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>	PLUG AND ABANDONMENT <input checked="" type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	MULTIPLE COMPLETION <input type="checkbox"/>	CASING TEST AND CEMENT JOB <input type="checkbox"/>	
OTHER: <input type="checkbox"/>		OTHER: <input type="checkbox"/>	

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 1103. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Plugged 11/13/02. Plugging witnessed by OCD.

Approved as to plugging of the Well Bore.
 Liability under bond is retained until
 surface restoration is completed.

This report done by Oil Conservation Division

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE _____ TITLE _____ DATE _____

Type or print name _____ E-mail address: _____ Telephone No. _____

(This space for State use)

APPROVED BY Gary W. Wink TITLE _____
 Conditions of approval: WINK
 O&G FIELD REPRESENTATIVE II/STAFF MANAGER

AUG 29 2003
 Before the OCC
 Case No. 12792
 Motion to Re-Open
 Exhibit G



April 7, 2004

VIA FACSIMILE
FAX NO. (505) 393-0720

Mr. Chris Williams
District Supervisor
Oil Conservation Division District I
1625 North French Drive
Hobbs, New Mexico 88240

Re: **Kelly H. Baxter**
Well Plugging Order Nos. R-11840 and R-11840-A

Dear Mr. Williams:

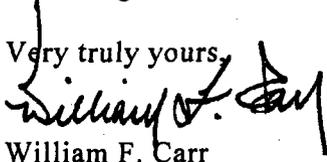
Following your telephone call of March 30, 2004, I contacted Kelly H. Baxter concerning his efforts to plug the remaining two wells covered by Division Order No. R-11840-A.

As you may know, Mr. Baxter has been able to bring five of the seven wells addressed by the Division's original plugging order into compliance with Division rules and is now attempting to bring the remaining two wells into compliance. As part of this effort, Mr. Baxter was at these well sites on Friday, March 26 conducting clean up operations. While working at these locations, Mr. Dan Berry, the surface owner, came to the locations and discussed the status of his efforts and an arrangement whereby Mr. Berry will be employed to conduct remaining work at these locations. Paul Sheeley of the Oil Conservation Division also visited the site on that date.

As we have previously advised the Division, Mr. Baxter has contacted several companies about the plugging of these wells and believes that the remaining work can be done during the next 90 days.

We appreciate the Division's patience with this matter and want to assure you that Mr. Baxter is making his best effort to comply with all Division rules and orders.

Very truly yours,


William F. Carr

cc: Mr. Kelly H. Baxter
Gail MacQuesten, Esq.

RECEIVED

APR 9 2004

Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

LOCATION	OPERATOR	WELL NAME	DEPTH	API NUMBER	ESTIMATE
B-30-21-36	Advanced Expl.	War Deck # 1	3975'	30-025-30626	\$15,900
F-02-26-37	B. Bernard Langford	Spear State # 1	3000'	30-025-22098	\$12,000
M-28-20-36	Carbon Energy, Inc	Aztec 28 State # 3	4307'	30-025-04361	\$17,228
C-06-19-37	Carbon Energy, Inc	Shell State # 1	4030'	30-025-26637	\$16,120
I-09-14-33	Eclipse O&G, Inc	State D SWD # 1	5480'	30-025-36171	\$21,920
K-30-18-37	Gordon M Cone	Beery-State # 1A	4609'	30-025-05514	\$18,436
G-29-18-36	Kelly H. Baxter	State "FP" # 1	11540'	30-025-21925	\$46,160
A-20-14-33	Kelly H. Baxter	WES # 1	10425'	30-025-28227	\$41,700
E-07-21-37	Millard Deck Estate	Alexander # 1	4119'	30-025-08429	\$16,476
D-33-21-35	Millard Deck Estate	Lea 407 State # 5	3950'	30-025-03535	\$15,800
M-05-13-36	Saba(AKA)Greka	Fern Guye # 1	11220'	30-025-34488	\$44,880
H-07-13-36	Saba(AKA)Greka	Harton State # 1	11180'	30-025-28540	\$44,720
D-08-13-36	Saba(AKA)Greka	Morris # 1	11214'	30-025-29247	\$44,856
I-07-13-36	Saba(AKA)Greka	Saba State # 1	14031'	30-025-33726	\$56,124
E-05-22-35	Saba(AKA)Greka	San Simon 5 State # 1	10942'	30-025-27564	\$43,768
G-05-22-35	Saba(AKA)Greka	San Simon 5 State # 2	13274'	30-025-28480	\$53,096
P-25-21-36	Tahoe Energy Inc	Brownlee # 1	3720'	30-025-04461	\$14,880
J-18-16-37	Verde Grande, Inc	Aztec State # 1	11536'	30-025-22342	\$46,144

Total Cost \$570,208

- 87,860
 for Kelly Baxter wells
 \$482,348.00
 48,238.80

 530,582.80