

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

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION ("DIVISION") FOR AN ORDER: (I) REQUIRING SABA ENERGY OF TEXAS, INC. TO PROPERLY PLUG AND ABANDON SIX WELLS IN LEA COUNTY, NEW MEXICO; (II) IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE TO COMPLY; (III) ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND; AND (IV) AUTHORIZING THE DIVISION TO PLUG AND ABANDON THESE WELLS.

**CASE NO. 13163
ORDER NO. R-12132**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on February 19 and April 1, 2004, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 23rd day of April, 2004, 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) Saba Energy of Texas, Inc. ("Saba") is the current owner and operator of the following-described six wells located in Lea County, New Mexico:

<u>Well Name</u>	<u>APT Number</u>	<u>Well Location</u>
San Simon "5" State No. 1	30-025-27564	Unit E, Section 5, T-22S, R-35E
San Simon "5" State No. 2	30-025-28480	Unit G, Section 5, T-22S, R-35E
Fern Guye No. 1	30-025-34488	Unit M, Section 5, T-13S, R-36E
Saba State No. 1	30-025-33726	Unit I, Section 7, T-13S, R-36E
Morris No. 1	30-025-29247	Unit D, Section 8, T-13S, R-36E
Harton State No. 1	30-025-28540	Unit H, Section 7, T-13S, R-36E

(3) The 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, order the forfeiture of the plugging bond for these wells, and impose a civil penalty on the operator for failure to comply with this order.

(4) The Division presented evidence to support its position that the subject wells should be plugged and abandoned. Testimony was presented by two representatives from the Santa Fe office of the Division and one representative from the Hobbs District Office of the Division.

(5) Saba appeared at the hearing through legal counsel.

(6) **Redland** Insurance Company, the surety for Saba's \$50,000 Blanket Plugging Bond (Bond No. RED 1023122), also appeared at the hearing through legal counsel.

(7) Division records show that Saba is the current operator of record of the six subject wells. Saba has owned the **Harton** State No. 1 since 1997, the Morris No. 1 and the Fern Guye No. 1 since 1998, the Saba State No. 1 since 1996, and the San Simon "5" State Wells No. 1 and 2 since 1995.

(8) In May, 2000, the Division sent a notice to Saba advising them that certain wells that they operate had been inactive for more than one year and that these wells were not in compliance with Division rules. On September 8, 2000, the Division sent an additional notice to Saba directing them to bring these wells into compliance within 60 days.

(9) The Division followed up with subsequent notices of violation to Saba for: (i) the Fern Guye No. 1 on October 8, 2002; (ii) the Morris No. 1 and the Saba State No. 1 on February 28, 2003; and, (iii) the Harton State No. 1, Morris No. 1, Saba State No. 1 and the Fern Guye No. 1 on July 28, 2003.

(10) All of the six subject wells are currently inactive, having not produced hydrocarbons and/or been utilized for other beneficial purposes for more than one year.

(11) Saba has not taken any action thus far to comply with Division directives to bring these wells into compliance.

(12) The evidence shows that the San Simon "5" State Wells No. 1 and 2 were drilled on State of New Mexico Lease No. LG-4135. This lease expired in 1999. The evidence further shows that **Nearburg** Exploration Company, L.L.C. is the current lessee of this acreage, which has now been designated as State Lease No. V-6907-1.

(13) The Morris No. 1, Saba State No. 1, Harton State No. 1 and Fern Guye No. 1 were drilled on the **Duncan/Harton** fee lease. According to **Saba's** legal counsel, the ownership of these four wells is currently the subject of litigation between the **Duncan/Harton** parties and Saba in the District Court of Lea County.

(14) Subsequent to the conclusion of proceedings on February 19, 2004, the Examiner directed the Division to provide notice of this application to the parties involved in the lawsuit against Saba.

(15) At the subsequent hearing held on April 1, 2004, the Division submitted evidence that it provided notice of this application to Nearburg Exploration Company, L.L.C. and to Mr. Jeffrey M. **Johnston**, attorney for Michael and Linda Harton.

(16) By letter to the Division dated March 31, 2004, the law firm of Short & Johnston advised the Division that:

- (a) their engineering experts believe that the Harton State No. 1 and the Fern Guye No. 1 are capable of producing hydrocarbons in paying quantities; and
- (b) requested that the Division require Saba to temporarily abandon the Harton State No. 1 and the Fern Guye No. 1 instead of requiring Saba to permanently plug and abandon these wells.

(17) Nearburg Exploration Company, L.L.C. has expressed no interest in assuming operatorship of the San Simon "5" State Wells No. 1 and 2.

(18) The Division's position is stated as follows:

- (a) Saba should be required to permanently plug and abandon the San Simon "5" State Wells No. 1 and 2;

- (b) Saba should be required to **either** temporarily abandon or permanently plug and abandon the Harton State No. 1, Fern Guye No. 1, Saba State No. 1 and Morris No. 1;
- (c) in the event Saba chooses to temporarily abandon the Harton State No. 1, Fern Guye No. 1, Saba State No. 1 or Morris No. 1, the Division should require Saba:
 - (i) to obtain and post with the Division an additional one-well plugging bond for each well that is temporarily abandoned;
 - (ii) to temporarily abandon the well in accordance with the procedures set forth by Division Rule 203;
 - (iii) to empty all fluids from any tanks on location; and
 - (iv) to clean up any pits **and/or** spills on location.

(19) The current condition of the wells is such that if action is not taken to either temporarily abandon or 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.

(20) In order to prevent waste and to adequately protect correlative rights and the environment, the San Simon "5" State Wells No. 1 and 2 should be plugged and abandoned by Saba in accordance with a plugging program approved by the supervisor of the Division's Hobbs District Office on or before June 1, 2004.

(21) Should Saba not meet this June 1, 2004 plugging obligation, the Division Director should then be authorized to take such action as is deemed necessary to properly plug and abandon these wells, seek to recover the plugging bond for these wells, and recover from the operator additional costs the Division may incur to properly plug and abandon these wells.

(22) Saba should be further required to either temporarily abandon or permanently plug and abandon the Morris No. 1, Saba State No. 1, Harton State No. 1 and the Fern Guye No. 1 in accordance with a procedure approved by the supervisor of the Division's Hobbs District Office on or before June 1, 2004.

(23) In the event Saba chooses to temporarily abandon the four wells described above, additional requirements, including but not limited to posting additional plugging bonds for these wells, should be imposed.

IT IS THEREFORE ORDERED THAT:

(1) Saba Energy of Texas, Inc., is hereby ordered to plug and abandon the following-described wells located in Lea County, New Mexico, on or before June 1, 2004:

San Simon "5" State No. 2	30-025-28480	Unit G, Section 5, T-22S, R-35E
San Simon "5" State No. 1	30-025-27564	Unit E, Section 5, T-22S, R-35E

(2) Saba Energy of Texas, Inc., is hereby further ordered to either temporarily abandon or permanently plug and abandon each of the following-described wells located in Lea County, New Mexico on or before June 1, 2004:

Fern Guye No. 1	30-025-34488	Unit M, Section 5, T-13S, R-36E
Saba State No. 1	30-025-33726	Unit I, Section 7, T-13S, R-36E
Morris No. 1	30-025-29247	Unit D, Section 8, T-13S, R-36E
Harton State No. 1	30-025-28540	Unit H, Section 7, T-13S, R-36E

(3) Saba Energy of Texas, Inc., prior to plugging and abandoning the San Simon "5" State Wells No. 1 and 2, and prior to temporarily abandoning or permanently plugging and abandoning the Fern Guye No. 1, Saba State No. 1, Morris No. 1 and the Harton State No. 1, shall obtain from the supervisor of the Division's district office in Hobbs an approved plugging or temporary abandonment procedure and shall notify the Hobbs District Office of the date and time this work is to commence whereupon the Division may witness such work.

(4) In the event Saba Energy of Texas, Inc. chooses to temporarily abandon the Fern Guye No. 1, Saba State No. 1, Morris No. 1 or the Harton State No. 1, instead of permanently plugging any of these wells, Saba Energy of Texas, Inc. shall be required to:

- (a) obtain and post with the Division a one-well plugging bond for each well that is temporarily abandoned in accordance with the requirements set forth by Division Rule 101;
- (b) temporarily abandon the well or well(s) in accordance with the procedures set forth in Division Rule No. 203;
- (c) remove any fluids from any tanks on the wellsite(s); and
- (d) clean all pits and/or spills located on the wellsite(s).

(5) Should Saba Energy of Texas, Inc. 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) have these wells properly plugged and abandoned; (ii) seek to recover the \$50,000 blanket plugging bond on which Redland Insurance Company is the surety; and (iii) recover from the operator additional costs the Division may incur to properly plug and abandon these wells.

(6) Failure to comply with the provisions of this order shall subject Saba Energy of Texas, Inc. to a fine of \$1,000.00 per day per well until such work is completed (see Section 70-2-31, NMSA 1978).

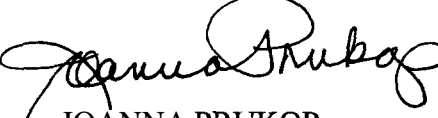
(7) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

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



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION


JOANNA PRUKOP
Acting Director