

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

**CASE NO. 13363
ORDER NO. R-12132-B**

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION ("DIVISION") FOR AN ORDER: (I) REQUIRING GREKA AM, INC. TO BRING SIX WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC; (II) ASSESSING CIVIL PENALTIES; AND (III) AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE SECURITY IN DEFAULT OF COMPLIANCE BY OPERATOR, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on November 18, 2004, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 8th day of December, 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) The Division seeks an order: i) requiring Greka AM, Inc. ("Greka"), the operator in fact of the following-described six inactive wells located in Lea County, New Mexico, to bring the wells into compliance with 19.15.4.201 NMAC; ii) assessing civil penalties; iii) authorizing the Division to plug said well or wells and forfeit the applicable security in default of compliance by the operator; and iv) providing such other relief as the Division deems appropriate:

<u>Well Name</u>	<u>API 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) By Order No. R-12132-A issued in Case No. 13163 on August 12, 2004, the New Mexico Oil Conservation Commission ("Commission") ordered Saba Energy of Texas, Inc. ("Saba") being the operator of record of the six wells described in Finding No. (2) above, to:

- (a) plug and abandon the San Simon "5" State Wells No. 1 and 2 within 30 days after the issuance of Order No. R-12132-A;
- (b) bring the Saba State Well No. 1 and the Morris Well No. 1 into compliance with Division rules within 30 days after the issuance of Order No. R-12132-A by either: i) plugging the well(s) in accordance with a Division-approved plugging program, in accordance with Rules 201 and 202; ii) restore such well(s) to production; or iii) causing such well(s) to be placed in approved temporary abandonment status in accordance with Division Rule 203; and
- (c) bring the Harton State Well No. 1 and the Fern Guye Well No. 1 into compliance with Division rules by December 31, 2004 by either: i) plugging the well(s) in accordance with a Division-approved plugging program, in accordance with Rules 201 and 202; ii) restore such well(s) to production; or iii) causing such well(s) to be placed in approved temporary abandonment status in accordance with Division Rule 203.

(4) Order No. R-12132-A further ordered that in the event Saba fails to comply with the directives set forth by the order:

- (a) Saba's plugging bond shall be forfeited as provided in NMSA 1978 Section 70-2-14, as amended;
- (b) the Division is authorized to plug and abandon the wells and remediate the site(s); and

- (c) the Division is authorized to demand and collect reimbursement of its costs incurred in plugging and abandoning the wells and in remediating the sites from the surety on Saba's bond, and from Saba to the extent of any excess of such costs over and above the amount collected from the surety.

(5) Order No. R-12132-A also assessed a civil penalty against Saba in the amount of \$270,000 for knowing and willful violation of Division Rule 201 and of Division Order No. R-12132 during the period from June 1 through July 15, 2004.

(6) The Division contends that although Greka is not the operator of record of the subject wells, it actually operated the wells subsequent to 1999 and should therefore be considered an additional responsible party with respect to compliance with Division rules.

- (7) 19.15.1.7 NMAC defines “operator” as follows:

19.15.1.7 DEFINITIONS:

O. Definitions beginning with the letter “O”.

- (5) Operator shall mean any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of the operation or management of a facility.

- (8) The Division presented evidence that demonstrates that:

- (a) information obtained from the New Mexico Public Regulatory Commission (“NMPRC”) shows Susan M. Whalen to be a company officer of both Saba and Greka, and also shows Randeep S. Grewal to be the president of Greka and the director of Saba;
- (b) an assignment and bill of sale filed with Lea County, New Mexico shows that on December 31, 1999, Saba assigned to Greka its title and interest in the property on which the subject wells are located;

- (c) by letter to the Division dated April 18, 2001, William W. **Bramlett**, Inc., ("**Bramlett**"), requested that the Division approve an operator name change from Saba Energy of Texas, Inc. to Greka AM, Inc.;
 - (d) by E-mail to the Division dated April 19, 2001, Bramlett stated that Saba is a wholly owned subsidiary of Greka;
 - (e) on May 8, 2001 Greka filed a \$50,000 plugging bond (Bond No. 04128203) in which Fidelity and Deposit Company of Maryland is the surety, to replace an existing \$50,000 plugging bond (Bond No. RED 1023122) maintained for Saba. In its correspondence on that date, Greka also requested that the Division release Saba's plugging bond. On May 17, 2001, the Division approved **Greka's** plugging bond, but did not release Saba's plugging bond;
 - (f) by E-mail correspondence to Bramlett dated May 17, 2001, the Division advised Bramlett that additional bonding in the amount of \$20,000 would be required prior to the Division approving the well transfer; and
 - (g) the required additional bonding was not provided to the Division by Greka, and the transfer of wells was not approved.
- (9) The Division presented further evidence that demonstrates that:
- (a) on February 12, 2002, Greka filed a Division Form C-103 (Sundry Notices and Report on Wells) for the San Simon "5" State Well No. 1, the San Simon "5" State Well No. 2 and the Fern Guye Well No. 1. On each of these forms, Greka Energy is listed as the operator of the well.

- (b) In 2003, a field inspector with the Division's Hobbs District Office conducted an inspection of the Fern Guye Well No. 1, the Morris Well No. 1, the Saba State Well No. 1 and the Harton State Well No. 1. The inspector found that the company name on all four wells signs, which previously read Saba Energy of Texas, Inc. had been replaced by Greka Energy; and
- (c) a document obtained from the District Court of Lea County, New Mexico shows that in August, 2001, Greka, as operator, requested A & M Machine Works of Hobbs, New Mexico, perform remedial work on the pumping unit on the Harton State Well No. 1.

(10) No action has been taken by Saba to bring the subject wells into compliance subsequent to the issuance of Division Order No. R-12132-A.

(11) The Division provided notice of this application to Greka and Fidelity and Deposit Company of Maryland. Neither party appeared at the hearing.

(12) The evidence presented by the Division demonstrates that Greka is the operator in fact of the six subject wells.

(13) The evidence further demonstrates that Saba and Greka are the same entity.

(14) Saba's \$50,000 plugging bond will likely not be sufficient to plug the six subject wells.

(15) The Division requests that Saba and Greka be held jointly responsible for plugging the subject wells or otherwise bringing the wells into **compliance** with Division rules. The Division further requests that Greka be required to plug and abandon the wells or otherwise take action to bring the wells into compliance by December 31, 2004.

(16) In addition, the Division requests that Greka and Saba be held jointly responsible for the civil penalty assessed against Saba by Division Order No. R-12132-A.

(17) The Division's application should be approved.

IT IS THEREFORE ORDERED THAT:

(1) Greka AM, Inc. is hereby ordered to plug and abandon the following-described wells located in Lea County, New Mexico, on or before December 31, 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) On or before December 31, 2004, Greka AM, Inc. is hereby further ordered to bring each of the following-described wells into compliance with Division rules by either: i) plugging such well(s) in accordance with a Division-approved plugging program, in accordance with Division Rules No. 201 and 202; ii) restoring such well(s) to production; or iii) causing such well(s) to be placed in temporary abandonment status in accordance with Division Rule 203.

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) Greka AM, Inc., prior to plugging and abandoning the San Simon "5" State Wells No. 1 and 2, and prior to restoring the wells to production, temporarily abandoning or permanently plugging and abandoning the Fern Guye Well No. 1, Saba State Well No. 1, Morris Well No. 1 and the Harton State Well No. 1, shall obtain from the supervisor of the Division's district office in Hobbs an approved plugging, temporary abandonment, or other 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 Greka AM, Inc. fails to plug and abandon any of the subject wells, or to otherwise restore any of such wells to compliance, in the manner and within the time herein provided, then:

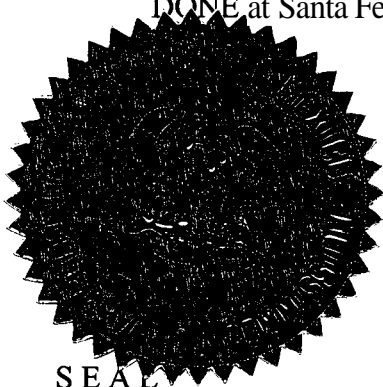
- (a) Greka AM, Inc.'s plugging bond shall be forfeited as provided in NMSA 1978 Section 70-2-14, as amended;

- (b) the Division is hereby authorized to plug and abandon any such well not brought into compliance within the time herein provided, and to remediate the site thereof in accordance with Division rules; and
- (c) the Division is further authorized to demand and collect reimbursement of its costs incurred in plugging and abandoning such wells and in remediating the sites thereof from the surety on Greka AM, Inc's bond, and from Greka AM, Inc. to the extent of any excess of such costs over and above the amount collected from the surety.

(5) Greka AM, Inc. is hereby held jointly responsible with Saba Energy of Texas, Inc. for the civil penalty in the amount of \$270,000 as assessed by Division Order No. R-12132-A, for knowing and willful violation of Division Rule 201, and of Division Order No. R-12132. Greka AM, Inc. shall deliver payment of such civil penalty to the Division no later than 30 days from the issuance of this order.

(6) 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.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

MARK E. FESMIRE, PE
Director