

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

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, PE
Director

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. 13163
ORDER NO. R-12132-A

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR
AN ORDER REQUIRING SABA ENERGY OF TEXAS, INC. TO PROPERLY PLUG
AND ABANDON SIX WELLS, IMPOSING CIVIL PENALTIES IN EVENT OF
FAILURE TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS
IN DEFAULT OF COMPLIANCE BY OPERATOR, AND ORDERING A
FORFEITURE OF APPLICABLE SECURITY, LEA COUNTY, NEW MEXICO.

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER came before the Oil Conservation Commission (the Commission) for hearing on July 15, 2004 at Santa Fe, New Mexico on the application of Saba Energy of Texas, Inc. for *de novo* review, and the amended application of the New Mexico Oil Conservation Division (the Division), and the Commission, having heard the evidence and arguments of counsel and carefully considered the same, now, on this 12th day of August, 2004,

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.

2. In the original application in this case and in its amended application, the Division alleges that Saba Energy of Texas, Inc. (Saba) is the operator of the following six wells (the subject wells) located in Lea County, New Mexico:

<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, T22S, R35E
San Simon 5 State No. 2	30-025-28480	Unit G, Section 5, T22S, R35E
Fern Guye No. 1	30-025-34488	Unit M, Section 5, T13S, R36E

Saba State No. 1	30-025-33726	Unit I, Section 7, T13S, R36E
Morris No. 1	30-025-29247	Unit D, Section 8, T13S, R36E
Harton State No. 1	30-025-28540	Unit H, Section 7, T13S, R36E

3. The Division seeks an order directing Saba to bring the subject wells into compliance with Division Rules by a date certain, by either (a) plugging such wells in accordance with a Division-approved plugging program in accordance with Division Rules 201 and 202 [19.15.4.201 and 19.15.4.202 NMAC], (b) restoring such wells to production, or (c) causing such wells to be placed in approved temporary abandonment status in accordance with Division Rule 203 [19.15.4.203 NMAC], including filing of additional financial assurance as provided in Rule 203.B(5); and, if Saba fails to comply with the terms of said order within the time therein provided, authorizing the Division to proceed to plug and abandon the subject wells, ordering forfeiture of the financial assurance furnished by Saba to secure its obligation to properly plug and abandon such wells and imposing civil penalties.

4. The Division presented the testimony of Mr. Chris Williams, the Division's District Supervisor for the District including Lea County, and offered in evidence material from the records of the Division, authenticated by the testimony of Mr. Williams, and by the affidavits of Ms. Jane Prouty, Supervisor of Production and Permitting for the Division and Ms. Dorothy Phillips, Bond Administrator for the Division.

5. Records of the Division admitted in evidence reflect that the subject wells have not produced any oil or gas, nor has any substance been injected into any of such wells, since the respective dates shown below:

<u>Well Name</u>	<u>Date of Last Production</u>
San Simon 5 State No. 1	November 1999
San Simon 5 State No. 2	August 1998
Fern Guye No. 1	November 1999
Saba State No. 1	October 2001
Morris No. 1	October 2001
Harton State No. 1	March 2002

6. Documents on file with the Division and admitted in evidence at the hearing reflect that Saba of Texas, Inc. is the operator of record of each of the subject wells, so designated, as to each such well, either in a form C-101 (Application for Permit to Drill, Re-Enter, Deepen, Plugback, Etc) executed by Saba or in a form C-104 (Request for Allowable and Authorization to Transport) executed by Saba and by a previous operator.

7. Although certain documents on file with the Division and admitted in evidence at the hearing show Greka Energy (Greka) as operator of some of the subject wells, Mr. Williams testified, based on his review of the well files of the Division pertaining to the subject wells, that no form C-104 designating Greka as operator in accordance with Division Rule 1104 [19.15.13.1104 NMAC] has been filed for any of the subject wells.

8. Mr. Williams further testified that none of the subject wells has been plugged, and that none of the subject wells has been approved for temporary abandonment pursuant to Rule 203.

9. Mr. Williams further testified that OCD Exhibit 15 admitted in evidence at the hearing comprised procedures for the proper plugging and abandonment of the subject wells in accordance with Division rules.

10. Mr. Williams further testified that two of the subject wells, the San Simon 5 State wells No. 1 and No. 2, are located on expired State of New Mexico leases.

11. Mr. Williams further testified that a release of hydrocarbons recently occurred at one of the subject wells, and that the occurrence of that release, together with the condition of the equipment at the subject wells, indicates a probability of fluid leaks that could adversely affect groundwater in the area.

12. Michael and Linda Harton and other owners of mineral interests in the Harton State No. 1 (the Hartons and the Duncans) appeared at the hearing through counsel, Mr. Michael A. Short, who represented that:

(a) the Hartons and the Duncans claim an interest in the Harton State No. 1, and the Hartons claim an interest in the Fern Guye No. 1, by reversion, the leases to Saba covering these properties having, according to their contention, terminated;

(b) the claim of the Hartons and the Duncans to the Harton State No. 1 is the subject of litigation pending in the District Court of Lea County, New Mexico;

(c) the Hartons and the Duncans believe that the Harton State No. 1 is capable of producing in paying quantities; and

(d) the Fern Guye No. 1 is potentially useful as an injection well.

13. The Division issued Order No. R-12132 in this case on April 23, 2004, directing Saba to properly plug the subject wells no later than June 1, 2004, and providing for a penalty of \$1,000 per day per well for each day thereafter that any of the subject wells remained non-compliant.

14. Saba filed a *de novo* appeal of Order No. R-12132 on May 21, 2004, but neither filed a request to stay said order, in accordance with Division Rule 1220 [19.15.14.1220 NMAC], nor took any action to comply therewith.

15. Saba has furnished financial assurance, in accordance with NMSA 1978 Section 70-2-14, as amended, to secure its obligation to properly plug and abandon its wells in New Mexico, including the subject wells, in the form of Redland Insurance Company Bond No. RED 1023122 in the amount of \$50,000 (Saba's bond).

16. The Commission concludes that:

(a) Saba is an operator of the subject wells, and accordingly is responsible for proper plugging and abandonment of the subject wells in accordance with NMSA 1978 Section 70-2-14, as amended, and Division Rule 201.

(b) The subject wells are inactive and have been continuously inactive for a period of more than one year plus ninety days; accordingly, unless the subject wells are restored to production, they must be plugged in accordance with Rule 201 or temporarily abandoned in accordance with Rule 203.

(c) The San Simon 5 State wells No. 1 and No. 2 are located on expired State of New Mexico leases. However, Saba remains responsible as operator for proper plugging and abandonment of these wells.

(d) If the subject wells are not plugged, or otherwise brought into compliance, fluids could escape from the formations in which they are encountered into other formations or to the surface, endangering fresh water and the environment.

(e) Saba had notice of the filing of the application in this case and of the entry of Order No. R-12132 by the Division.

(f) By failing to properly plug and abandon the subject wells, or to otherwise bring the subject wells into compliance with Division Rules , during the time from June 1, 2004 to July 15, 2004, Saba knowingly and willfully violated Rule 201, a rule of the Division duly adopted pursuant to the New Mexico Oil and Gas Act [NMSA 1978 Sections 70-2-1 through 70-2-38, as amended], and also knowingly and willfully violated Order No. R-12132, an order duly issued by the Division, which was not stayed or suspended.

(g) Pursuant to NMSA 1978 Section 70-2-31.A, as amended, civil penalties should be assessed against Saba for knowingly and willfully violating a Division rule and a Division order, in the amount of \$1,000 per day for each of the subject wells from June 1, 2004, through and including July 15, 2004, the date of the Commission hearing.

IT IS THEREFORE ORDERED THAT:

1. Saba is hereby ordered to properly plug and abandon the following wells within thirty (30) days after issuance of this order:

<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, T22S, R35E
San Simon 5 State No. 2	30-025-28480	Unit G, Section 5, T22S, R35E

2. Saba is hereby ordered to bring each of the remaining subject wells into compliance with Division Rules by either (a) plugging such well in accordance with a Division-approved plugging program, in accordance with Rules 201 and 202, (b) restoring such well to production, or (c) causing such well to be placed in approved temporary abandonment status in accordance with Division Rule 203, no later than the respective dates indicated below:

<u>Well Name</u>	<u>API Number</u>	<u>Well Location</u>
<u>Wells to be brought into compliance no later than thirty (30) days after issuance of this order</u>		
Saba State No. 1	30-025-33726	Unit I, Section 7, T13S, R36E
Morris No. 1	30-025-29247	Unit D, Section 8, T13S, R36E
<u>Wells to be brought into compliance no later than December 31, 2004</u>		
Harton State No. 1	30-025-28540	Unit H, Section 7, T13S, R36E
Fern Guye No. 1	30-025-34488	Unit M, Section 5, T13S, R36E

3. In bringing the subject wells into compliance as directed in ordering paragraphs 1 and 2, Saba shall comply with all applicable Division rules, including but not limited to, Rules 201, 202 and 203, and with the plugging procedures admitted in evidence in this case as OCD Exhibit 15, or other Division-approved plugging procedure.

4. Saba shall notify the Hobbs District Office of the Division prior to conducting any procedures on the subject wells pursuant to this order, so that Division personnel may be present to witness such procedures.

5. In the event that Saba 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) Saba's 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;

(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 Saba's bond, and from Saba to the

extent of any excess of such costs over and above the amount collected from the said surety.

6. A civil penalty is hereby assessed against Saba, in accordance with NMSA 1978 Section 70-2-31.A, as amended, in the amount of \$270,000 for knowing and willful violation of Division Rule 201 and of Division Order No. R-12132, as above described, during the period from June 1 through July 15, 2004. Saba shall deliver payment of such civil penalty to the Division no later than thirty (30) days from the issuance of this order.

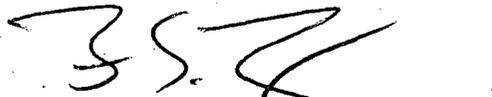
7. Jurisdiction is hereby retained for the entry of such further orders as the Commission may deem necessary.

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

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**


MARK E. FESMIRE, P.E., CHAIR


JAMI BAILEY, CPG, MEMBER


FRANK T. CHAVEZ, MEMBER

SEAL