

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

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

CASE NO. 13,163

APPLICATION OF THE NEW MEXICO OIL)
 CONSERVATION DIVISION FOR AN ORDER)
 REQUIRING SABA ENERGY OF TEXAS, INC.,)
 TO PROPERLY PLUG 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, IF ANY, LEA COUNTY,)
 NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSEXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

April 1st, 2004

Santa Fe, New Mexico

RECEIVED

APR 15 2004

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

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, April 1st, 2004, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

I N D E X

April 1st, 2004
Examiner Hearing
CASE NO. 13,163

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Submission by the Division, not offered or admitted:

Identified

Letter from Short and Johnston
to Ms. MacQuesten, dated 3-31-04

5

* * *

A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR SABA ENERGY:

JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

1 WHEREUPON, the following proceedings were had at
2 10:12 a.m.:

3 EXAMINER CATANACH: All right, at this time we'll
4 call Case 13,163, the Application of the New Mexico Oil
5 Conservation Division for an order requiring Saba Energy of
6 Texas, Inc., to properly plug six wells, imposing civil
7 penalties in event of failure to comply, authorizing the
8 Division to plug said wells in default of compliance by
9 operator and ordering a forfeiture of applicable security,
10 if any, Lea County, New Mexico.

11 Call for appearances in this case.

12 MS. MacQUESTEN: Gail MacQuesten for the Oil
13 Conservation Division.

14 MR. BRUCE: Jim Bruce representing Saba Energy,
15 Mr. Examiner.

16 EXAMINER CATANACH: Okay, any additional
17 appearances?

18 There are none, so can you explain why we're here
19 today, Ms. MacQuesten? I believe we've already heard this
20 case; is that correct? We've already heard this case?

21 MS. MacQUESTEN: Yes, we have, the Division
22 presented its testimony at the last setting, and at the end
23 of that testimony, Mr. Examiner, you asked the Division to
24 contact several potential operators for some of these wells
25 that had been identified by Mr. Bruce. So we continued the

1 hearing to allow us to notify these operators.

2 I've sent you a copy of those letters with a
3 cover letter explaining that I contacted the firm of Short
4 and Johnston. They represent the Hartons, who are
5 individuals who may have an interest in two of the wells at
6 issue in this case.

7 I also notified Nearburg. Nearburg has taken on
8 the state lease on some of -- that covers some of these
9 wells.

10 I received a response from Short and Johnston,
11 and this was also copied to Mr. Bruce. I can give it to
12 you for your file --

13 MR. BRUCE: I have a copy, Gail.

14 MS. MacQUESTEN: They've expressed an interest in
15 two of the wells and asked that those wells be temporarily
16 abandoned rather than plugged.

17 I did not hear anything from Nearburg, but you
18 should have the green receipts in the file for those two
19 notices.

20 MR. BRUCE: And Ms. MacQuesten did provide me
21 with copies of those, Mr. Examiner.

22 EXAMINER CATANACH: Okay. Ms. MacQuesten, does
23 the Division have a position on the request of Short and
24 Johnston?

25 MS. MacQUESTEN: We have no objection to having

1 Saba put the two wells onto temporarily abandonment status.
2 We ask that they comply with Rule 203 in that regard.

3 One of the wells, the -- I believe it's the
4 Harton State Number 1, did have some problems. You may
5 recall Mr. Williams testified that there were tanks on the
6 property that contained liquid. We would ask that when
7 that well is temporarily abandoned, that the tanks be
8 cleaned out and remain empty during the period of temporary
9 abandonment.

10 We also ask that to the extent Saba chooses to
11 satisfy Rule 201 by placing any of these wells on temporary
12 abandonment status, that they also provide a single well
13 bond for those wells.

14 Right now we're in a position that we have a
15 \$50,000 blanket bond. We have six wells. Saba, according
16 to the Public Regulation Commission, no longer exists, so
17 it's unlikely that we'll be able to recover any costs if
18 the State has to plug these wells ourselves, beyond what's
19 covered by a bond.

20 EXAMINER CATANACH: Do you know -- are you
21 recommending any amount of bond?

22 MS. MacQUESTEN: I'd suggest the amount set by
23 statute or by rule for each well, based on location and
24 depth.

25 EXAMINER CATANACH: So a single-well plugging

1 bond for each of the wells?

2 MS. MacQUESTEN: Exactly.

3 EXAMINER CATANACH: Okay. Anything further, Ms.
4 MacQuesten?

5 MS. MacQUESTEN: No, thank you.

6 EXAMINER CATANACH: Mr. Bruce, do you have
7 anything?

8 MR. BRUCE: Just briefly, Mr. Examiner. I think,
9 as we discussed at the original hearing in this matter,
10 there's basically two sets of wells:

11 The two San Simon wells, which were the ones that
12 Nearburg acquired the leasehold on, and apparently, as Ms.
13 MacQuesten said, Nearburg does not express an interest in
14 those wells, and frankly I do not know if there's any
15 alternative other than to plugging and abandoning those
16 wells.

17 With respect to the other four wells, which I'll
18 refer to as the Harton group although the letter from Short
19 and Johnston refers to the Harton and the Guye wells, my
20 client believes that there is potential in all four wells
21 and would ask that an order be issued requiring to TA the
22 wells. They have looked into TA'ing the wells and giving
23 them a certain time frame in which to TA those wells.

24 And thirdly, I believe that Mr. Williams from the
25 Hobbs office did request cleanup of the Harton State well,

1 and have an order covering that issue as well. I don't
2 think it was a substantial cleanup, but nonetheless that's
3 what the Division would like to see.

4 Because of the -- and Mr. Examiner, I did -- and
5 I'll -- I did get a copy of the complaint in the matter,
6 and I neglected yesterday to make copies. I will submit
7 that to counsel and to the Division. It's the complaint
8 that was discussed regarding -- against Saba Energy, its
9 parent corporation Greka, by the Hartons and others,
10 regarding trespass and various other matters involving some
11 of these wells, which is the reason why Saba was reluctant
12 to plug and abandon them, which could increase their
13 exposure as a result of that lawsuit.

14 EXAMINER CATANACH: Uh-huh.

15 MR. BRUCE: And I will make copies and submit
16 that to Ms. MacQuesten, as well as to you. I apologize for
17 -- I have too much other paperwork on the other cases.

18 EXAMINER CATANACH: Mr. Bruce, have you had a
19 chance to talk to Saba regarding having to put up some
20 additional bonding for these wells?

21 MR. BRUCE: No, I haven't, Mr. Examiner. Ms.
22 MacQuesten just mentioned that this morning, and I will
23 certainly be contacting them later today about these
24 issues.

25 EXAMINER CATANACH: Okay.

1 MR. BRUCE: And I don't know what the regulations
2 provide with respect to additional bonding, I must say.

3 MS. MacQUESTEN: Mr. Examiner, this --

4 MR. BRUCE: There aren't any --

5 MR. BROOKS: There is a provision in the Oil and
6 Gas Act that says that the Oil Conservation Division has
7 the discretion to require additional bonding if a well has
8 been temporarily abandoned for more than two years, which
9 generally we've interpreted its meaning as been --

10 MR. BRUCE: -- not producing.

11 MR. BROOKS: -- yeah, inactive for more than two
12 years. I'm sorry, I cut you off.

13 MS. MacQUESTEN: No, that's what I would have
14 liked to have said, but you said it better.

15 I did want to bring up that this was mentioned at
16 the hearing. I did ask for additional bonding when we met
17 a month ago.

18 EXAMINER CATANACH: Okay. I guess that pretty
19 much takes care of everything we need to do. Anything
20 else?

21 MR. BRUCE: I have nothing further, Mr. Examiner.

22 MS. MacQUESTEN: Nothing further.

23 EXAMINER CATANACH: Okay, there being nothing
24 further in this case, Case 13,163 will be taken under
25 advisement. Thank you.

1 And I believe that's it. This hearing is
2 adjourned.

3 (Thereupon, these proceedings were concluded at
4 10:22 a.m.)

5 * * *

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12 I do hereby certify that the foregoing is
13 a complete record of the proceedings in
14 the Examiner hearing of Case No. 13163
15 heard by me on April 1 2004.
16 David M. White, Examiner
17 Oil Conservation Division
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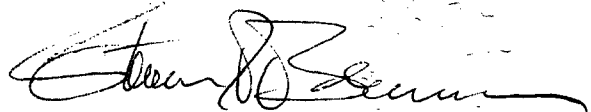
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL April 2nd, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006

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FAX COVER SHEET

DELIVER IMMEDIATELY TO: Ms. Gail MacQuesten

From Attorney: Michael A. Short

Date: March 31, 2004

No. of pages including cover sheet: 2

To Fax No.: 505-476-3462

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March 31, 2004

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Re: Case No. 13163: Application of the New Mexico Oil Conservation Division for an Order Requiring Saba Energy of Texas, Inc., to Properly Plug Six Wells, Imposing Civil Penalties for Failure to Comply, Authorizing the Division to Plug Said Wells and Ordering a Forfeiture of Applicable Plugging Bond; Lea County, New Mexico

Dear Ms. MacQuesten and Mr. Bruce:

Our law firm represents Michael and Linda Harton with regard to the Harton State #1 and the Fern Guye #1 wells in Lea County, New Mexico, which are two of the subject wells in the referenced application.

We are unable to attend the hearing for the referenced case on April 1, 2004, because of a hearing scheduled in Lovington, New Mexico, regarding litigation pending which involves the Harton State #1 Well. That matter is No. CV-2001-249-MC, Michael Harton, et al. v. Greka Energy Corporation, et al. in the Fifth Judicial District Court, Lea County, New Mexico.

Our clients have asked that we request that until the pending litigation is completed, the status of the Harton State #1 and the Fern Guye #1 wells be changed to temporarily abandoned instead of plugged and abandoned. Our engineering experts believe both wells are capable of production in paying quantities, and, therefore, it would be committing economic waste to plug them at this time.

If you have any questions, please do not hesitate to call.

Sincerely,

SHORT & JOHNSTON

By: 

Michael A. Short

MAS:lkc

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