

**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

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

CASE NO. 12459

IN THE MATTER OF THE HEARING CALLED BY THE NEW MEXICO OIL CONSERVATION DIVISION THROUGH THE SUPERVISOR OF DIVISION DISTRICT II IN ARTESIA, NEW MEXICO ON ITS OWN MOTION FOR AN ORDER: (I) REQUIRING I.T. PROPERTIES TO PROPERLY PLUG AND ABANDON ONE (1) WELL IN EDDY COUNTY, NEW MEXICO; OR (II) AUTHORIZING THE DIVISION TO PLUG AND ABANDON THIS WELL, AND ORDERING A FORFEITURE OF THE PLUGGING BOND COVERING THIS WELL.

ORDER NO. R-11520A

AGREED ORDER

BY THE COMMISSION:

This case came before the Oil Conservation Commission (hereinafter "the Commission") on June 21, 2002 at Santa Fe, New Mexico, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 21st day of June, 2002,

FINDS:

1. Notice has been given of the application and of the hearing of this matter, and the Commission has jurisdiction of the parties and of the subject matter herein.
2. This case is before the Commission on the application of I.T. Properties for review *de novo* of this matter.
3. I.T. Properties of Arlington, Texas is the current owner and operator of the DHY State Well No. 1 (API No. 30-015-21638) located 1980 feet from the North and West lines (Unit F) of Section 23, Township 19 South, Range 28 East, NMPM, Eddy County, New Mexico (hereinafter "the subject well).
4. In compliance with NMSA 1978 Section 70-2-14, as amended, and Division Rule 101 [19 NMAC 15.C.101] I.T. Properties has posted with the Division a blanket plugging bond in the amount of \$50,000 to secure its obligation to properly plug and abandon its wells when no longer capable of commercial production and no longer utilized for some beneficial purpose. The applicable bond was issued by Gulf Insurance Company of Dallas, Texas, as surety, and is Bond No. 58-54-63.

5. The Division seeks an order directing I.T. Properties to properly plug and abandon the subject well in accordance with Division Rules and a Division-approved plugging program, including site remediation, and, if I.T. Properties fails to do so, authorizing the Division (i) to proceed to plug and abandon this well, (ii) to declare forfeiture of I.T. Properties' above-described plugging bond, and (iii) to recover, by suit if necessary, from I.T. Properties any costs of plugging and abandonment of the well and of remediation of the well site in excess of the amount of the bond.

6. The Division and I.T. Properties both appeared at the hearing and announced to the Commission that they were in agreement regarding the findings and order hereinafter set forth.

7. The subject well was originally drilled by DEPCO, Inc., was spudded on November 5, 1975, and was completed in January of 1976 in the Wolfcamp and Morrow formations, with perforations at 8,895 to 8,902 feet and at approximately 11,065 to 11,090 feet respectively.

8. On March 23, 1976, in Case No. 5684, on application of DEPCO, Inc. for a dual completion, the Commission, after notice and hearing, entered Order No. R-5184, authorizing the operator of the subject well:

... to produce oil from the Wolfcamp formation and gas from the Morrow formation through tubing and through the casing-tubing annulus, respectively, by means of a cross-over assembly, with separation of the zones achieved by packers set at approximately 8,818 feet and 10,985 feet.

9. I.T. Properties assumed operations, with Division approval, on March 5, 1991.

10. The subject well has not produced any hydrocarbon substance since August, 1996.

11. The subject well failed a packer leakage test conducted in October, 1996.

12. On January 31, 2001, in Case No. 12459, on application of the Division through the Supervisor of District I, the Division, after notice and hearing, entered Order No. R-11520, ordering the subject well plugged and abandoned. I.T. Properties duly and timely filed application for *de novo* review by the Commission of Order No. R-11520.

13. On May 1, 2001, I.T. Properties filed a Notice of Intent to Perform Remedial Work (C-103) on the subject well, declaring its intention to "squeeze off the casing leak at 3100' and put DHY State #1 back to production." This Notice of Intent was not approved by the Division.

14. On July 9, 2001, I.T. Properties filed a more detailed Notice of Intent to Perform Remedial Work (C-103) on the subject well describing a procedure for repair of

the casing. This C-103 was approved by the Artesia District Office of the Division on August 20, 2001, with the notation, "Casing must pass mechanical integrity test. Notify O.C.D. prior to repair actions & testing."

15. In September and October, 2001 I.T. Properties conducted remedial work on the subject well. The contractor was unable to dislodge the tubing, and the tubing was shot off at approximately 9,000 feet, leaving a string of 2.375 inch tubing in the hole below that level.

16. On December 8, 2001, I.T. Properties filed another form C-103 with reference to the subject well notifying of intent to "POH tubing and packer, replace with new string and redress packer. Swab and produce." This Notice of Intent was not approved by the Division.

17. On February 6, 2002, I.T. Properties filed a Subsequent Report of Remedial Work (C-103) performed on May 1, 2, May 27-30, September 27 through October 25 and November 2 through December 5, 2001, indicating that the casing leak had been repaired, 2.875 inch tubing run, and a packer set at 4,050 feet. This C-103 was not approved by the Division.

18. On March 7, 2002, a casing integrity test was conducted with the packer set at 4,050 feet. This test was witnessed and approved by the Division's Artesia District Office.

19. On March 11, 2002, the Division notified I.T. Properties that it would be necessary to conduct a casing integrity test with a packer set within 100 feet above the uppermost perforations before the subject well could be returned to production.

20. On May 23, 2002, I.T. Properties notified the Division's Artesia District Office that the packer set in the subject well had been moved down to 8,700 feet, and that a mechanical integrity test was to be conducted. The Artesia District Office of the Division notified I.T. Properties by letter dated May 27, 2002 that (1) prior to any M.I.T on the well the packer setting depth should be verified by a method approved by the Division, (2) the operator should notify the Division prior to any repair actions or well tests on the subject well so that such actions and tests could be witnessed by the Division, and (3) in accordance with the provisions of Order R-5184, the subject well could not be restored to production without first setting a packer at approximately 10,985, to isolate the Wolfcamp and Morrow formations, as provided in said Order.

21. The 2.375 inch casing in the hole below 9,200 feet has never been recovered, and it would be impossible to set a packer at 10,985 feet, as required by Order R-5184, without first recovering the tubing in the hole.

22. I.T. Properties proposes to restore the subject well to production by setting a packer at 8,700 feet and producing down-hole commingled gas from the Wolfcamp and Morrow formations through 2.875 inch tubing set in that packer.

23. On December 5, 2001, I.T. Properties filed with the Division's Santa Fe office an application for down-hole commingling of gas from the Wolfcamp and Morrow formations in the subject well. This application was returned as incomplete on December 20, 2001.

24. The Division's Artesia District Office does not oppose restoration of the subject well to production in the manner proposed by I.T. Properties, provided that I.T. Properties complies with any conditions required by the Division Director, upon the recommendation of a Division hearing examiner. The Division's Artesia district office and I.T. Properties are not now in agreement on the conditions that should be required, but both parties agree to submit this issue at the Division level.

25. I.T. Properties agrees that if its proposed procedure is not authorized, or proves not to be feasible, then it will cause the subject well to be plugged and abandoned.

IT IS THEREFORE ORDERED:

1. Pursuant to the Application of the Division, I.T. Properties of Arlington, Texas, is hereby ordered, no later than one hundred twenty (120) days from the date of this order, to plug and abandon the DHY State Well No. 1 (API No. 30-015-21638) located 1980 feet from the North and West lines (Unit F) of Section 23, Township 19 South, Range 28 East, NMPM, Eddy county, New Mexico, **unless**, within that period of time:

- a. The Division Director enters an order, after notice and hearing, authorizing I.T. Properties to down-hole commingle gas production from the Wolfcamp and Morrow formations in the subject well, as proposed by I.T. Properties, or amending Order No. R-5184 to permit the isolation of the Wolfcamp and Morrow zone by a packer set immediately below the Wolfcamp perforations.
- b. I.T. Properties complies with all terms and conditions of the order of the Division Director so-entered, and files a form C-104 (Request for Allowable and Authorization to Transport Gas) from the subject well, and secures approval thereof by the Supervisor of the Artesia District office of the Division .

2. If the Division Director enters an Order denying I.T. Properties' Application for Down-Hole Commingling in the subject well, or imposing conditions unacceptable to I.T. Properties, and I.T. Properties files a timely request for *de novo* review of such Division Order, such request shall be consolidated with the case, and this case shall be re-opened. If I.T. Properties fails to file a timely request for *de novo* review of such Division Order, this Order shall remain in full force and effect.

3. The Division Director is hereby authorized, after notice and hearing, to enter an order amending Order R-5184 in such manner, and to such extent, as she deems appropriate based on the record of the hearing and the recommendation of the hearing examiner, subject to review by the Commission on *de novo* appeal, as in other cases.

4. I.T. Properties, prior to plugging and abandoning the subject well, shall obtain from the Supervisor of the Artesia District Office of the Division an approved plugging program, and shall notify the Artesia District Office of the date and time this work is to commence, in order that the Division may witness such work.

5. Should I.T. Properties fail or refuse to carry out the provisions of this order in accordance with terms, in the event and within the time herein provided, the Division shall (a) cause the subject well to be plugged and abandoned, and the site thereof remediated, in accordance with NMSA Section 70-2-14, as amended, and Division Rules; (b) declare forfeit the \$50,000 blanket plugging bond (No. 58-54-63) issued by Gulf Insurance Company of Dallas, Texas, as surety, and I.T. Properties as principal, and any other security held by the Division to secure the obligation of I.T. Properties pursuant to NMSA 1978 Section 70-2-14, as amended, and (c) take such steps as may be necessary to recover, by suit or otherwise, from I.T. Properties, any costs incurred by the Division in complying with this Ordering Paragraph 3 over and above amounts realized from said bond or other security.

6. Jurisdiction of this case is retained for entry of such further orders as the Commission may deem necessary.

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

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

LORI WROTENBERY, CHAIR

(absent)

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

SEAL

Approved for Entry:

New Mexico Oil Conservation Division

David K. Brooks
Assistant General Counsel

I.T. Properties

Paul Owen
Attorney of Record