

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

2003 JUL 7 PM 4 13

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE SUPERVISOR OF DISTRICT I, FOR AN ORDER REQUIRING SABA ENERGY OF TEXAS, INC. TO BRING SIX WELLS INTO COMPLIANCE WITH 19.15.4.201 NMAC, ASSESSING APPROPRIATE CIVIL PENALTIES, AND AUTHORIZING THE DIVISION TO PLUG SAID WELLS AND FORFEIT THE APPLICABLE SECURITY IN DEFAULT OF COMPLIANCE BY THE OPERATOR; LEA COUNTY, NEW MEXICO.

CASE NO. 13163
De Novo

PRE-HEARING STATEMENT

This entry of appearance and pre-hearing statement is submitted by the applicant, the Oil Conservation Division.

APPEARANCES

APPLICANT
Oil Conservation Division

APPLICANT'S ATTORNEY
Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
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(505) 476-3451
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OPPONENTS
Saba Energy of Texas, Inc.
Redland Insurance Company

OPPONENTS' ATTORNEY
James Bruce
P.O. Box 1056
Santa Fe, NM 87504
(505) 982-2043

STATEMENT OF THE CASE

Saba Energy of Texas, Inc. ("Saba") is the operator of record for six shut-in wells located in Lea County, New Mexico. The Division made repeated attempts to contact Saba to obtain compliance with 19.15.4.201 NMAC, beginning as early as September 2000, but received no response. According to the Public Regulation Commission web site, Saba's corporate registration was revoked on June 20, 2003. Assuming that the wells had been orphaned, the Division filed an application pursuant to 19.15.3.101.M NMAC, seeking an order that would allow the Division to plug the wells, and forfeit the applicable \$50,000 blanket plugging bond. The case was set for November 7, 2003.

Saba, however, entered an appearance and requested a three-month continuance. Saba's motion for continuance states that four of the wells are the subject of a civil lawsuit, and that two of the wells are on an expired state lease. Saba requested the additional time so that it could determine whether it could plug or temporarily abandon the wells.

Saba and its surety appeared at the February 19, 2004 hearing through counsel and opposed the application. Saba argued that the wells should not be plugged because Saba and/or future operators may have uses for the wells. Saba did not, however, present any evidence regarding whether other operators were interested in the wells, and presented no evidence why the wells could not be brought into compliance by being placed on temporary abandonment status. The hearing examiner ordered the Division's counsel, over counsel's objections, to notify the parties to the lawsuit and the new state leaseholder of the pending application. The hearing examiner then continued the hearing until April 1, 2004 to allow interested parties to appear and show cause why an order should not be issued requiring Saba to plug the wells.

At the April 1, 2004 hearing, Division counsel introduced correspondence from the attorneys for the plaintiffs in the civil suit advising the Division that two of the wells were capable of production, and asking the Division to place those wells on temporary abandonment status rather than plug them. The letter did not mention the other two wells subject to the lawsuit. The new state leaseholder expressed no interest in the two wells located on the state lease. The Division asked the hearing examiner to require Saba to bring all six wells into compliance with 19.15.4.201 NMAC either by plugging the wells or by placing the wells on temporary abandonment status. The Division also requested that the examiner require Saba to post a single well financial assurance for each well Saba chose to place on temporary abandonment status, citing 19.15.4.203.B(5) NMAC.

Order No. R-12132, issued April 23, 2004, required Saba to plug the two wells on the state lease and plug or temporarily abandon the remaining four wells by June 1, 2004. The order also required Saba to post a single-well plugging bond for each well placed on temporary abandonment status. The order imposed a fine of \$1000 per day per well in the event Saba failed to comply with the order.

Saba applied for a de novo hearing pursuant to NMSA 1978, Section 70-2-13 and 19.15.14.1220 NMAC. Saba did not request a stay of Order No. R-12132. To date, the Division is not aware of any action taken by Saba to plug the wells or place the wells on temporary abandonment status.

The Division has filed an amended application before the Commission, to incorporate the issues raised at the hearing before the Division hearing examiner. In addition, the amended application seeks civil penalties against Saba for its knowing and willful failure to comply with 19.15.4.201 NMAC both before and after the issuance of Order No. R-12132.

PROPOSED EVIDENCE

APPLICANT

WITNESS:

1. Chris Williams (by telephone)
2. Jane Prouty (by affidavit)
3. Dorothy Phillips (by affidavit)

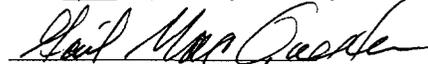
ESTIMATED TIME:

30 min.

PROCEDURAL MATTERS

None.

Respectfully submitted,
This 7th day of July, 2004 by



Gail MacQuesten
Oil Conservation Division
Energy, Minerals and Natural
Resources Department

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Santa Fe, NM 87505
(505) 476-3451

Attorney for the Oil Conservation Division

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served upon James Bruce,
Attorney for Saba Energy Company of Texas, Inc., by facsimile (982-2151) this 7th day of July, 2004.


Gail MacQuesten