

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

RECEIVED

MAY 21 2004

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION, THROUGH THE
SUPERVISOR OF DISTRICT I, FOR AN
ORDER REQUIRING SABA ENERGY OF TEXAS,
INC. TO PROPERLY PLUG SIX WELLS,
ASSESSING AN APPROPRIATE CIVIL PENALTY
IN THE EVENT OF OPERATOR'S FAILURE TO
COMPLY, AUTHORIZING THE DIVISION TO
PLUG SAID WELLS, AND ORDERING A
FORFEITURE OF THE APPLICABLE PLUGGING
BOND, LEA COUNTY, NEW MEXICO.

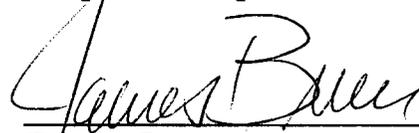
Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

Case No. 13163
Order No. R-12132

APPLICATION FOR HEARING DE NOVO

Saba Energy of Texas, Inc., a party of record adversely affected by the order entered herein, requests that this matter be heard de novo before the Oil Conservation Commission pursuant to NMSA 1978 §70-2-13 and Division Rule 1220.

Respectfully submitted,



James Bruce
Post Office Box 1056
Santa Fe, New Mexico 87504
(505) 982-2043

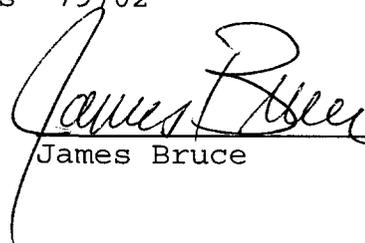
Attorney for Saba Energy
Company of Texas, Inc.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served upon the following counsel of record this 21st day of May, 2004 by United States Mail:

Gail MacQuesten
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Michael A. Short
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Midland, Texas 79702


James Bruce

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

**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**

**AMENDED
APPLICATION FOR COMPLIANCE ORDER**

1. Saba Energy of Texas, Inc. ("Operator") is the operator of record of the following wells located in Lea County, New Mexico:
 - a. Harton State #1, API #30-025-28540, Unit Letter H, Section 7, Township 13 South, Range 36 East.
 - b. Morris #1, API #30-025-29247, Unit Letter D, Section 8, Township 13 South, Range 36 East.
 - c. Fern Guye #1, API #30-025-34488, Unit Letter M, Section 5, Township 13 South, Range 36 East.
 - d. Saba State #1, API #30-025-33726, Unit Letter I, Section 7, Township 13 South, Range 36 East.
 - e. San Simon 5 State #1, API #30-025-27564, Unit Letter E, Section 5, Township 22 South, Range 35 East.
 - f. San Simon 5 State #2, API #30-025-28480, Unit Letter G, Section 5, Township 22 South, Range 35 East.

The said wells or wells are hereinafter called the “subject well(s),” whether one or more.

2. Redlands Insurance Company (“Surety”) is the surety on blanket bond number RED 1023122 posted by the Operator pursuant to NMSA 1978, Section 70-2-14 in the amount of \$50,000 to secure the Operator’s obligation to plug and abandon the subject wells in compliance with the rules of the Oil Conservation Division (“Division”).

3. Division rule 19.15.4.201 NMAC requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity.

4. The subject wells have been inactive for a continuous period in excess of one year plus ninety days.

5. The subject wells have not been plugged and abandoned pursuant to Division rule 19.15.4.202 NMAC or temporarily abandoned in accordance with Division rule 19.15.4.203 NMAC.

6. NMSA 1978, Section 70-2-31 authorizes the Director to impose a civil penalty of \$1000 for each knowing and willful violation of any provision of the Oil and Gas Act or any rule or order issued pursuant to that act. The statute further provides that in the case of a continuing violation, each day of violation constitutes a separate violation.

7. The Operator is in knowing and willful violation of Division rule 19.15.4.201 NMAC because

- a. Pursuant to Division rule 19.15.1.12 NMAC it is the responsibility of the operator to obtain information pertaining to the regulation of oil and gas;
- b. The terms of the blanket bond covering the subject wells, signed by the Operator, puts the Operator on notice that he is obligated “to plug all of

said wells when dry or when abandoned in accordance with the rules, regulations, and orders of the Oil Conservation Division of New Mexico...;"

- c. Division rule 19.15.1.201 NMAC requires operators to plug and abandon or temporarily abandon within ninety days any well that has been inactive for a continuous period of one year;
 - d. The Operator has knowledge of each well's activity, and whether the well has been plugged and abandoned or temporarily abandoned under the OCD's rules;
 - e. The Operator has been on notice of the alleged violations at least since its receipt of the original application filed in this case on October 22, 2003; and
 - f. Despite having knowledge of the requirements of OCD Rule 19.15.4.201 NMAC and the facts demonstrating violation of the rule, and despite receiving actual notice of the alleged violations from the OCD, the Operator has taken no action to bring the subject wells into compliance.
8. Division rule 19.15.101(M) NMAC authorizes the Director to order the operator to plug and abandon any well not in compliance with 19.15.4.201 NMAC by a date certain, and to direct the Division to forfeit the bond and cause such well to be plugged in accordance with a Division-approved plugging program if, after the time provided in such order, the operator has failed to plug the well.
9. Division rule 19.15.4.203.B(5) NMAC provides that the Division may require the operator to post with the Division a one-well plugging bond for wells placed on temporary abandonment status in an amount to be determined by the Division to be satisfactory to meet the particular requirements of the well.

WHEREFORE, the Supervisor of District I of the Division hereby applies to the Director to enter an order:

- A. Determining that the subject wells are not in compliance with 19.15.4.201 NMAC;

- B. Assessing a civil penalty based on the Operator's knowing and willful violation of 19.15.4.201 NMAC by failing to bring the subject wells into compliance with that rule;
- C. Requiring the Operator to bring the subject wells into compliance with 19.15.4.201 NMAC within a date certain by plugging and abandoning the wells, placing the wells on temporary abandonment status, or returning the wells to beneficial use;
- D. For each well the Operator places on temporary abandonment status, requiring the Operator to post a single-well financial assurance in the amount set by Division rule 19.15.3.101.C or in an amount the Commission determines is adequate to plug the well;
- E. Further, for each subject well not brought into compliance with 19.15.4.201 NMAC by the date set by the order:
- (1) Assessing an additional penalty of \$1000 against the Operator for each full month of continued non-compliance after the date set by the order;
 - (2) Authorizing the Division to complete the plugging operations on the subject well including installing a marker and closing the pit in accordance with a Division-approved plugging program; and
 - (3) Authorizing the Division to declare forfeit the security furnished by the Operator; and
- F. For such other and further relief as the Commission deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED,
this 24th day of June, 2004 by



Gail MacQuesten
Assistant General Counsel
Energy, Minerals and Natural
Resources Department of the State of
New Mexico
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451

Attorney for The New Mexico Oil
Conservation Division

Certificate of Service

I hereby certify that I a true
and correct copy of the foregoing
pleading was transmitted to Mr. James
Bruce, attorney for Saba Energy of
Texas, Inc. by fax (982-2151) this
24th day of June, 2004.



Gail MacQuesten