

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. 13,363

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR AN ORDER)
REQUIRING GREKA AM, INC., TO BRING SIX)
WELLS INTO COMPLIANCE WITH 19.15.4.201)
NMAC, ASSESSING CIVIL PENALTIES AND)
AUTHORIZING THE DIVISION TO PLUG SAID)
WELLS AND FORFEIT THE APPLICABLE)
SECURITY IN DEFAULT OF COMPLIANCE BY)
OPERATOR, LEA COUNTY, NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID R. CATANACH, Hearing Examiner

November 18th, 2004

Santa Fe, New Mexico

2004 DEC 2 AM 11 43

This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID R. CATANACH, Hearing Examiner, on Thursday, November 18th, 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.

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November 18th, 2004
Examiner Hearing
CASE NO. 13,363

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A P P E A R A N C E S

FOR THE DIVISION:

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

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

1 WHEREUPON, the following proceedings were had at
2 2:43 p.m.:

3 EXAMINER CATANACH: Okay, if we're all set I will
4 call the hearing back to order at this time, and call Case
5 13,363, which is the Application of the New Mexico Oil
6 Conservation Division for an order requiring Greka AM,
7 Inc., to bring six wells into compliance with 19.15.4.201
8 NMAC, assessing civil penalties and authorizing the
9 Division to plug said wells and forfeit the applicable
10 security in default of compliance by operator, Lea County,
11 New Mexico.

12 Call for appearances in this case.

13 MS. MacQUESTEN: Mr. Examiner, my name is Gail
14 MacQuesten. I'm appearing for the Oil Conservation
15 Division. I have two witnesses.

16 EXAMINER CATANACH: Okay, and let the record show
17 that there are no other parties present at the hearing
18 today, and I would ask that the two witnesses please stand
19 to be sworn in at this time.

20 (Thereupon, the witnesses were sworn.)

21 MS. MacQUESTEN: Mr. Examiner, this is a somewhat
22 unusual plugging case, and I would ask for permission to
23 make a brief statement.

24 EXAMINER CATANACH: Today's the day to put an
25 unusual case on, Ms. MacQuesten, it appears, so you may

1 proceed.

2 MS. MacQUESTEN: This case involves six wells
3 that have been inactive for a period of time in excess of
4 one year plus 90 days, that have not been plugged or placed
5 on temporary abandonment status. They are clearly in
6 violation of Rule 201.

7 What makes this case unusual is that we are
8 asking for an order against a company that is not the
9 operator of record.

10 We already have an order against the operator of
11 record, Saba Energy of Texas, Inc. In Case Number 13,163
12 the Oil Conservation Commission found that these six wells
13 were in violation of Rule 201 and ordered the operator of
14 record, Saba Energy of Texas, Inc., to bring the wells into
15 compliance by certain deadlines and to pay a \$270,000
16 penalty. The order authorizes the Division to plug the
17 wells and forfeit Saba's \$50,000 bond if Saba fails to
18 comply.

19 According to the testimony at the hearing in Case
20 13,163, if the Division has to plug the six wells, Saba's
21 \$50,000 bond may not be adequate to cover the costs.

22 As you were the Division Examiner in the Saba
23 case, you may recall that the name Greka AM, Inc., appeared
24 as the operator in a number of the documents in the well
25 file. That name was crossed off, however, and replaced

1 with the Saba name, because Greka never officially became
2 the operator of record.

3 However, we have done additional research. We
4 discovered that Greka attempted to become the operator of
5 record for these six wells. Greka even posted a \$50,000
6 bond specifically for these six wells. But when the
7 Division required additional bonding, because the wells had
8 been inactive, Greka balked. Greka never posted the
9 additional bonding and therefore never officially became
10 the operator in Division records.

11 But the \$50,000 blanket bond posted by Greka is
12 still in effect. And Greka was the operator in fact of
13 these wells.

14 We will ask you to consider the definition of the
15 operator in our Rules, in 19.15.1.7.0.(5) NMAC. For your
16 convenience, I've made that an exhibit. It's in your
17 packet marked as Exhibit Number 8. It states that the
18 "operator shall mean any person who, duly authorized, is in
19 charge of the development of a lease or the operation of a
20 producing property, or who is in charge of the operation or
21 management of a facility".

22 Greka meets that definition because, first, it
23 acquired all of Saba's interests in the properties in 1999.
24 Second, it actually operated the properties. For four of
25 the six wells we have photos showing Greka signs on the

1 wells.

2 We will also be presenting an affidavit from
3 someone who did work on the wells, who was hired and paid
4 by Greka.

5 Third, Greka posted the bond, thereby taking
6 responsibility for plugging these wells. The terms of the
7 bond give them that responsibility.

8 And fourth, on three of the wells Greka filed
9 forms with the OCD under its own name, Greka.

10 The Division has filed this action against Greka
11 to give Greka, as operator in fact of the wells, the
12 opportunity to bring the wells into compliance and also to
13 obtain authority to forfeit Greka's bond if it fails to do
14 so. In addition, the Division seeks penalties against
15 Greka for failing to comply with Rule 201.

16 You should have an evidence packet in front of
17 you.

18 The first exhibit is the notice certificate in
19 this case. We were able to obtain service on Greka at a
20 Santa Maria, California, address.

21 Exhibit Number 2 is a fax from the attorney in
22 the Saba case. He gave us that same Santa Maria,
23 California, address as the address for contacting Saba. In
24 fact, in his fax cover sheet he says, "If you need a
25 contact for Saba Energy of Texas, Inc., it is: Susan M.

1 Whalen, General Counsel, Greka Energy Corp.", and gives the
2 Santa Maria, California, address.

3 I put this into an exhibit because I wanted to
4 point out how closely related these two companies are. We
5 are dealing with the same people in this case that we dealt
6 with in the Saba case.

7 Exhibit Number 3 is a printout from the Public
8 Regulation Commission. I'd ask you to take administrative
9 notice of this printout. It gives corporation information
10 on Greka from the PRC website. It shows that the company
11 is still active, although it's not in good standing. And
12 I'd point out that the principals are Susan Whalen and
13 Randeep Grewal.

14 You'll see those names again in Exhibit Number 4,
15 which is a printout from the PRC for Saba Energy of Texas.
16 Saba Energy is currently inactive. The officers, again,
17 are Susan Whalen and Randeep Grewal.

18 Exhibit 5, I would ask you to take administrative
19 notice of this exhibit. It is an assignment and bill of
20 sale transferring Saba's interest in various properties to
21 Greka, AM. It's dated December 31st, 199. It includes
22 those properties on which the six wells are located. This
23 is a legal document on file with the Lea County Court.

24 Exhibit 6, for your convenience, I've included
25 the Commission order in the Saba case. In that order the

1 Commission already determined that the six wells at issue
2 are in violation of Rule 201. The order also sets
3 deadlines for compliance for Saba, and that last deadline
4 is December 31st of 2004.

5 Exhibit 7 is an affidavit from Jane Prouty. In
6 that affidavit, she goes through the records of the Oil
7 Conservation Division to show that the six wells at issue
8 in this case are still inactive.

9 And Exhibit 8 is the definition of operator.

10 At this time I would call Dorothy Phillips.

11 DOROTHY L. PHILLIPS,

12 the witness herein, after having been first duly sworn upon
13 her oath, was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. MacQUESTEN:

16 Q. Would you please state your name for the record?

17 A. Dorothy Phillips.

18 Q. And where do you work?

19 A. Oil Conservation Division in Santa Fe.

20 Q. What's your title?

21 A. Bond administrator.

22 Q. How long have you been the bond administrator for
23 the OCD?

24 A. About four years.

25 Q. Do your duties include maintaining records of

1 financial assurance documents filed by operators pursuant
2 to NMSA 1978, Section 70-2-14?

3 A. That's correct.

4 Q. In the course of your duties, do you also
5 research OCD's computerized records on well operators and
6 wells?

7 A. Yes, I do.

8 Q. Did you testify in a compliance action against
9 Saba Energy of Texas, Inc.?

10 A. Yes.

11 Q. Would you please look at what has been marked as
12 OCD Exhibit Number 9? Is this a printout of the unplugged
13 wells operated by Saba Energy of Texas, Inc.?

14 A. That's correct.

15 Q. And where does this come from?

16 A. This is off of OCD online, it's e-permitting, and
17 these are all the active wells for that company.

18 Q. So if you put in the name of the operator, you'll
19 get a list of all the active wells operated by that
20 operator?

21 A. That's correct.

22 Q. And by "active" we mean wells that haven't been
23 plugged?

24 A. That's correct.

25 Q. In this case, when you put in the name Saba

1 Energy of Texas, Inc., this is the list of wells that you
2 pulled up?

3 A. Yes.

4 Q. And this includes the wells that are at issue in
5 this case?

6 A. Yes.

7 Q. Did you look into ONGARD to see what financial
8 assurances were posted by Saba Energy of Texas, Inc.?

9 A. Yes, I did.

10 Q. What is ONGARD.

11 A. ONGARD, it's Oil and Natural Gas Administration
12 and Revenue Database, and it's a tri-agency database. It's
13 State Land Office, Oil Conservation Division and Taxation
14 and Revenue, and it tracks statewide oil and gas production
15 taxes and royalties.

16 Q. All right. Would you please take a look at what
17 has been marked as Exhibit Number 10? Is that a printout
18 of the ONGARD results in your search for what financial
19 assurances were posted by Saba Energy of Texas, Inc.?

20 A. That's correct.

21 Q. And what financial assurance does it show?

22 A. It's a \$50,000 blanket bond.

23 Q. Did you pull the file on that blanket bond for
24 Saba?

25 A. Yes.

1 Q. Is there a \$50,000 blanket bond?

2 A. Yes.

3 Q. And is that bond still in place?

4 A. Yes.

5 Q. When you looked at the Saba file, did that file
6 show an attempt to change the operator of these wells from
7 Saba Energy of Texas to some other entity?

8 A. Yes.

9 Q. Please look at what has been marked as Exhibit
10 Number 11. Is this a letter you found in the file?

11 A. Yes.

12 Q. And is this a request from a Mr. Bramlett to
13 change the name of the company from Saba Energy of Texas to
14 Greka AM, Inc.?

15 A. That's correct.

16 Q. And when is this dated?

17 A. It is dated April 18th, 2001.

18 Q. Now, Mr. Bramlett wanted to treat this as a name
19 change. Did the OCD treat it as a name change?

20 A. No.

21 Q. Why not?

22 A. What happens, when I get a change of name I refer
23 it to the attorney to make that determination if it, in
24 fact, is a change of name or change of operator, but when
25 it's a different entity it's treated as a change of

1 operator, not a change of name. And in this case it was a
2 separate entity.

3 Q. Would you take a look at Exhibit Number 12,
4 please? Is this further e-mail correspondence with Mr.
5 Bramlett?

6 A. That's correct.

7 Q. And what dates were these?

8 A. April 19th, 2001.

9 Q. All right. And what is the substance of this
10 e-mail?

11 A. It's stating that Saba is a wholly owned
12 subsidiary of Greka.

13 Q. And what is he trying to accomplish, what does he
14 want us to do?

15 A. He wants to let us know they're one and the same.

16 Q. Uh-huh. And what wells does he want to transfer
17 over to Greka?

18 A. All.

19 Q. Please look at Exhibit Number 13. Is this an
20 April 19, 2001, fax of the initial list of wells to be
21 transferred?

22 A. That's correct.

23 Q. And who is this from?

24 A. This is from Sally Martinez to William Bramlett.

25 Q. Who's Sally Martinez?

1 A. She's an employee of the OCD.

2 Q. And what is she telling Mr. Bramlett he needs to
3 do?

4 A. To look at the wells, to make sure those are the
5 wells that are being transferred over, and that they need
6 to acquire a bond, and that they have to contact me to do
7 that, and that they must also be registered with the Public
8 Regulation Commission.

9 Q. Okay. And attached to that cover sheet is a list
10 of the wells?

11 A. Yes, when -- In the past, when a request for
12 change of operator was submitted an initial list was
13 created of all the wells and then sent to the operators for
14 their review, and if there were any discrepancies then they
15 worked that out with the district office. And then if they
16 didn't find any and they wanted to finalize it, we then did
17 a final list to attach to a C-104A.

18 Q. Now, on this attached list there's a column
19 titled "Minimum Additional Bond Required". What does that
20 mean?

21 A. Yes, if the wells have been shut in, the computer
22 automatically issues an amount of additional bonding, and
23 the bond amount is determined by the county and the depth.
24 In this case it's \$10,000 for each well that is shut in.

25 Q. Please look at what has been marked as Exhibit

1 14. Is this -- What did Greka do in response to Sally
2 Martinez's fax?

3 A. They sent a fax copy of a bond that they would be
4 submitting in the amount of \$50,000.

5 Q. What date is this?

6 A. May 8th, 2001.

7 Q. And this is being sent by a Mr. Bradford. The
8 title on the top of this document is Greka Energy?

9 A. That's correct.

10 Q. But the bond that is attached is for Greka --

11 A. -- AM, Inc.

12 Q. -- AM, Inc. And in Mr. Bradford's cover letter
13 he indicates that this bond is a replacement of a similar
14 bond that is currently being maintained in effect for Saba
15 Energy of Texas, Inc.?

16 A. That's correct.

17 Q. So they were hoping to put this bond into effect
18 and then release the Saba bond?

19 A. That's correct.

20 Q. Was this bond accepted by the OCD?

21 A. Yes.

22 Q. Turn to Exhibit Number 15. Is that our
23 acceptance of the bond?

24 A. Yes.

25 Q. And that is dated May 17th, 2001?

1 A. Correct.

2 Q. Turn to Exhibit Number 16, please. Is this an
3 exchange of e-mail between Sally Martinez and Mr. Bramlett
4 regarding additional bonding requirements?

5 A. Yes.

6 Q. And this is dated May 17 and May 18?

7 A. Correct.

8 Q. What did Ms. Martinez tell Mr. Bramlett about
9 additional bonding?

10 A. Ms. Martinez is advising the gentleman that the
11 District Supervisor, Chris Williams, has required the
12 additional bonding before the change of operator can go
13 through.

14 Q. Did Greka ever submit additional bonding?

15 A. No.

16 Q. Turn to Exhibit Number 17. What is this
17 document?

18 A. Well, this is a note to the file stating that the
19 change of operator from Saba Energy did not go through to
20 Greka.

21 Q. Who wrote this memo?

22 A. I did.

23 Q. And what were you doing by writing this memo?

24 A. Oh, just a note to the file for if ever anything
25 was questioned as to what happened, this would be on there,

1 in there, for informational purposes.

2 Q. So the change of operator from Saba to Greka AM,
3 Inc., never went through?

4 A. That's correct.

5 Q. And Saba remains operator of record as far as our
6 OCD records show?

7 A. That's correct.

8 Q. But we still have a bond in place for Saba in the
9 amount of \$50,000 and a bond in place for Greka AM, Inc.,
10 in the amount of \$50,000?

11 A. That's correct.

12 Q. Just to bring us up to date, please turn to
13 Exhibit Number 18. Is this an attempt by the surety
14 company to cancel the bond for Greka AM?

15 A. Yes.

16 Q. And when was this dated?

17 A. September 14th, 2004.

18 Q. Was the bond canceled?

19 A. No.

20 Q. Why not?

21 A. It was at the request of the attorney, OCD
22 attorney, not to release the bond.

23 Q. Now, normally you would check and see whether the
24 operator had any wells, and if they didn't have any wells
25 you would release the bond, wouldn't you?

1 A. Right, what happens is, when I have a request
2 either from the surety or the operator to release a bond, I
3 go onto e-permitting and see if there is any active wells.
4 If there are, I will cancel as to future liability, meaning
5 that I will cancel the bond on 30 days from the date of
6 request, but the bond remains in effect, but no other wells
7 can be added to the bond after that date.

8 But if there are no wells then I can release the
9 bond, but I verify with the three districts, get their
10 approval before I release the bond.

11 Q. Is Exhibit Number 19 our response to the surety
12 company denying the release of the bond?

13 A. Yes.

14 Q. Now, did Greka AM, Inc., ever become operator of
15 record for any wells in New Mexico?

16 A. No.

17 Q. How about Greka Energy?

18 A. No.

19 MS. MacQUESTEN: Those are all the questions I
20 have of Ms. Phillips.

21 EXAMINATION

22 BY EXAMINER CATANACH:

23 Q. So at the current time, Ms. Phillips, we still
24 have two bonds in place, one from Saba and one from Greka;
25 is that correct?

1 A. That's correct.

2 Q. Do you know if Greka ever submitted change-of-
3 operator forms for the wells?

4 A. No, not to me, the change-of-operator forms don't
5 come to me, but I would advise the districts that the
6 bonding was in place, the additional bonding and everything
7 was okay to approve the change of operator. And so if they
8 did submit it to them they wouldn't have gotten a final
9 list. The final list told the district people that I had
10 approved the additional bonding, all the bonding was in
11 place, and we never did send them a final list to attach to
12 a C-104A for the districts to approve, so no.

13 Q. So if they would have received change-of-operator
14 forms, the district would have called you and asked you if
15 it was okay?

16 A. Uh-huh.

17 Q. Okay, and they never did that?

18 A. No.

19 EXAMINER CATANACH: Okay, I don't think I have
20 anything else for Dorothy.

21 MS. MacQUESTEN: Let me just ask one or two more
22 questions that might become interesting later.

23 FURTHER EXAMINATION

24 BY MS. MacQUESTEN:

25 Q. If the State has to plug a well, at what point do

1 we pull the bond?

2 A. If the State has to plug a well?

3 Q. Uh-huh.

4 A. What we do is, it goes to hearing, then we put
5 out an IFB, then we select a contractor, and we plug the
6 well. And after the well is plugged, then we go -- we pull
7 the bond.

8 Q. So we don't pull the bond until we find out how
9 much it's going to cost?

10 A. That's correct.

11 Q. And if the bond is greater than the amount that
12 it costs to plug the well, do we ask for only the amount we
13 need?

14 A. If the well is for \$50,000 and the plugging of
15 the well was \$34,000, there remains an amount. I wait to
16 see if the OCD attorney will allow me to release that bond
17 in case there's an environmental problem or a cleanup
18 problem. And once he determines there is not and he allows
19 me to release, then I release.

20 Q. But we only take what we need from the bond?

21 A. That's correct. An invoice -- a copy of the
22 invoice is submitted from the contractor to plug that well,
23 are submitted to the surety or to the bank or whatever, for
24 reimbursement, showing what was spent to plug the well.

25 MS. MacQUESTEN: All right, thank you. I have no

1 other questions.

2 EXAMINER CATANACH: Okay, Ms. Phillips, you may
3 be excused. Thank you, Ms. Phillips.

4 MS. MacQUESTEN: I would call Bill Prichard.

5 MR. PRICHARD: Yes, ma'am, I'm here.

6 MS. MacQUESTEN: Would you please -- First of
7 all, can you hear me well?

8 MR. PRICHARD: Yes, ma'am, I can hear you find.

9 MS. MacQUESTEN: All right, thank you.

10 BILLY PRICHARD,
11 the witness herein, after having been first duly sworn upon
12 his oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MacQUESTEN:

15 Q. Would you state your name for the record?

16 A. My name is Billy Prichard.

17 Q. And where do you work?

18 A. I work in Hobbs, New Mexico, for the NMOCD in
19 District 1.

20 Q. What is your title there?

21 A. I'm the compliance and enforcement officer.

22 Q. Do your job duties include inspecting wells for
23 compliance with the Oil and Gas Act and OCD Rules?

24 A. Yes, ma'am, I do.

25 Q. Are you familiar with the wells that are at issue

1 in this case?

2 A. Yes, ma'am, I am familiar with four of them real
3 well.

4 Q. And why is that?

5 A. They're southwest of Tatum, and I can see them
6 from the highway and I drive by them nearly every day.

7 Q. Are they in the area that you cover with your
8 inspections?

9 A. Yes, ma'am, they sure are.

10 Q. All right. And how about the other two wells?

11 A. The two San Simon wells in question, I have never
12 laid eyes on them except through the well files.

13 Q. All right, but you have looked at the well files
14 for those wells?

15 A. Yes, ma'am.

16 Q. They're outside your area of inspection?

17 A. Yes ma'am, they are.

18 Q. Are all of the wells located in Lea County?

19 A. Yes, ma'am, they are.

20 Q. And are they also in OCD's District 1?

21 A. Yes, ma'am, they are.

22 Q. Now, have you reviewed all the well files for all
23 six of these wells?

24 A. Yes, ma'am, I sure did. I reviewed them in
25 preparation of plugging procedures that I wrote.

1 Q. Okay. And did you review them recently in
2 preparation for this hearing?

3 A. Yes, ma'am, I sure did.

4 Q. Can you tell me whether there have been any
5 filings for any of those six wells after the Commission
6 issued its order in the Saba case on August 12th of this
7 year?

8 A. No, ma'am, there has been no filing.

9 Q. So nobody has come in to plug any of those wells
10 since the Saba case?

11 A. No, ma'am, they sure have not.

12 Q. And they haven't put them on temporary
13 abandonment status?

14 A. No, ma'am. That requires paperwork too, putting
15 them on temporary abandonment status, and there has been no
16 paperwork filed.

17 Q. All right. When you were checking the well
18 files, did the name Greka appear in any of those files?

19 A. Yes, ma'am, they sure did.

20 Q. Would you take a look at Exhibit Number 20,
21 please?

22 A. Yes, ma'am.

23 Q. Is this from the file for the San Simon 5 State
24 Number 1 well?

25 A. Yes, ma'am, it is.

1 Q. Who does it list as the operator?

2 A. Greka Energy.

3 Q. Uh-huh, and that's typed in?

4 A. Yes, ma'am, that sure is.

5 Q. And is there some handwritten notations next to
6 that?

7 A. Yes, Saba Energy of Texas, Inc., and then their
8 address is also written in, in the address of the operator.

9 Q. All right, when was this document filed?

10 A. February 12th of 2002.

11 Q. All right. Take a look at Exhibit Number 21.

12 A. Yes, ma'am.

13 Q. Is this a document from the file for the San
14 Simon 5 State Number 2 well?

15 A. Yes, ma'am, it is.

16 Q. And does it have the same sort of annotations?

17 A. Yes, ma'am, it does.

18 Q. And is it filed on the same date?

19 A. Yes, ma'am, it sure is.

20 Q. Take a look at Exhibit Number 22. Is this a
21 document from the Fern Guye Well Number 1 file?

22 A. Yes, ma'am, it is.

23 Q. And does it have the same annotations with Greka
24 Energy and Saba Energy of Texas?

25 A. Yes, ma'am, it does.

1 Q. And is that also filed on the same day?

2 A. Yes, ma'am, February 12th, 2002.

3 Q. Now, on each of these three exhibits someone
4 hand-wrote in the name, "Saba Energy of Texas, Inc.", and a
5 different address. Do you know who did that?

6 A. Yes, ma'am, Donna Mull here in the OCD office,
7 and I'm not certain of her exact title, but she reviews all
8 the paperwork.

9 Q. Why would she have done that?

10 A. She would have done that because Greka Energy was
11 not recognized as the operator. There was either no bond
12 in place or no change of operator, or something that
13 spurred her to put Saba Energy of Texas in there.

14 Q. Okay. So in other words, these documents were
15 filed under the name Greka Energy, but OCD wrote in Saba
16 Energy of Texas?

17 A. Yes, ma'am, that's correct.

18 Q. Did you check the well files for the other three
19 wells to look for Greka's name?

20 A. Yes, ma'am, I did, and I didn't notice it.

21 Q. Okay. Did I ask you to take pictures of the six
22 wells or pictures of the wells that are at issue in this
23 case in preparation for the hearing?

24 A. Yes, ma'am, you did, and I failed to get pictures
25 of the San Simon wells, just the four wells at Tatum.

1 Q. Okay. Are Exhibits 23 through 26 copies of those
2 pictures that you took?

3 A. Yes, ma'am, they are.

4 Q. When were the pictures taken? Just roughly, I
5 don't need an exact date.

6 A. Seems like they were taken at the first of 2003.

7 Q. Okay, take a look at Exhibit Number 23, and could
8 you tell us what this shows?

9 A. Twenty-three?

10 Q. Right.

11 A. Exhibit 23?

12 Q. Yeah.

13 A. It shows us a well sign for the Fern Guye tank
14 battery, and I'm assuming that it's Saba Energy of Texas
15 underneath the Greka Energy sticker.

16 Q. So that white patch on the top of the sign is a
17 sticker on top of the metal sign?

18 A. Yes, ma'am.

19 Q. And this particular one is for the Fern Guye
20 well?

21 A. Yes, ma'am.

22 Q. How about Exhibit Number 24?

23 A. This is a picture of the well sign at the Morris
24 well.

25 Q. And it has the same sticker on it?

1 A. Yes, ma'am, it does.

2 Q. How about Exhibit 25?

3 A. Yes, ma'am, same situation.

4 Q. Is this for the Harton State well?

5 A. Uh-huh.

6 Q. And Exhibit 26?

7 A. Same situation for the Saba State Number 1, a
8 Greka sticker over the Saba Energy of Texas.

9 Q. Now, the Greka Energy sticker on each of these
10 well signs has a telephone number. Did you or anyone else
11 ever try that phone number?

12 A. Yes, ma'am, it is disconnected.

13 Q. How, had you seen these signs at the wells before
14 the date you took these pictures?

15 A. Yes, ma'am, I did. I did an inspection on 10 --
16 on October 30th of 2001, I believe it was, that -- I didn't
17 recognize the G as a G, and I wrote Reka on my inspection,
18 and the phone number.

19 Q. Is Exhibit 27 a copy of the inspection report
20 from that inspection?

21 A. Yes, ma'am, it is.

22 MS. MacQUESTEN: Mr. Examiner, at this time I
23 would also ask you to take administrative notice of Exhibit
24 Number 28. It's an affidavit that was prepared for a civil
25 lawsuit involving Greka AM, Inc. It's the affidavit of

1 Michael Taylor. He's the sales manager of A&M Machine
2 Works in Hobbs. In the affidavit he states that his
3 company did work on the Harton State Number 1 well for
4 Greka AM, Inc., and was paid by Greka AM, Inc., for that
5 work.

6 EXAMINER CATANACH: Okay.

7 Q. (By Ms. MacQuesten) Mr. Prichard, have you
8 prepared plugging procedures for the six wells in this
9 case?

10 A. Yes, ma'am, I sure have.

11 Q. And is Exhibit Number 9 a packet of those
12 plugging procedures?

13 A. Exhibit 29?

14 Q. Yes.

15 A. Yes, ma'am, that is a packet of them.

16 Q. Now, they all say Saba Energy of Texas, Inc., on
17 top. Is that because these plugging procedures were
18 prepared for the Saba hearing?

19 A. Yes, ma'am, that's right.

20 Q. Mr. Prichard, when the State has to plug wells in
21 your district, are you involved with the plugging
22 contractors who are hired to do that work?

23 A. Yes, ma'am, I sure am.

24 Q. And are you familiar with how much it costs to
25 plug wells?

1 A. Yes, ma'am, for about the last nine months I have
2 been tracking our state plugging costs in District 1.

3 Q. Now, is there anything different about the six
4 wells we're talking about today from the wells that you had
5 to deal with in plugging?

6 A. Yes, ma'am, as a general rule, we've been
7 plugging shallow wells, and our average cost to date is
8 right at five dollars and a nickel a foot to plug the
9 wells, and most of them are four to three thousand foot
10 deep. It's been a while since we've had to plug a deep
11 well, and the six wells in question are 10,600-plus, so
12 they're deeper wells.

13 Q. Did you check to see if the costs would be still
14 \$5.05 a foot for these deeper wells?

15 A. Yes, ma'am, I did, and I talked with the
16 contractor that has been getting most of our state plugging
17 contracts, and he gave me a rough estimate of \$20,000 to
18 plug these wells.

19 Q. Is that \$20,000 each well?

20 A. Yes, ma'am.

21 Q. Would we be able to recoup any salvage value to
22 offset that \$20,000 cost?

23 A. Yes, ma'am, we should. Right now salvage is
24 high, and downhole tubulars are bringing premium, so we
25 would be able to recoup quite a bit of rods, tubing and

1 casing out of these wells.

2 Q. If salvage values hold at their current levels,
3 how much is it going to cost us to plug each of these
4 wells?

5 A. We estimated about \$8000 in recoverable salvage
6 on the wells, so we'd be looking at around \$12,000 a well
7 to plug.

8 Q. Okay.

9 A. The ones that have, you know, recoverable stuff
10 in them.

11 Q. Now, salvage value changes over times; is that
12 right?

13 A. Yes, ma'am, it historically has.

14 Q. Okay. Do any of these wells have pumping units
15 on them?

16 A. Yes, ma'am, the four wells in Tatum, the Fern
17 Guye, the Morris, the Harton State and the Saba State all
18 have pumping units on them.

19 Q. For the wells that have pumping units, what do
20 you expect to have to pay to plug those wells?

21 A. In my business with the plugger, it's a
22 possibility that those wells -- we could end up -- I don't
23 know that we would net money on it, but I don't think we
24 would -- it would actually cost us anything to plug it.

25 Q. Okay.

1 A. It would be a net zero.

2 Q. Okay. Now, the two San Simon wells don't have
3 pumping units on them?

4 A. That is my understanding. There's not any
5 inspections in the RBDMS system, but I have talked to some
6 people who said that there was no equipment on the wells.

7 Q. Okay. Now, we've been talking about these costs
8 sort of in a best-case scenario if the salvage values are
9 high and we don't run into any problems with plugging the
10 wells; is that right?

11 A. Yes, ma'am, that's right.

12 Q. But we don't know if salvage values are going to
13 hold, do we?

14 A. No, ma'am, we don't, and we don't know what kind
15 of problems we'll run into downhole either.

16 Q. Do you have any reason to believe we would run
17 into problems with these wells?

18 A. Well, I have been told that the San Simon wells
19 have casing problems. Now, you know, that's oilfield
20 rumor.

21 Q. Okay. If a well does have casing problems, how
22 does that affect the cost of plugging?

23 A. Well, it goes up quite a bit because of rig time,
24 and it -- just in trying to -- you know, you've got to plug
25 the well from the bottom up, and we've got to be able to

1 get to the bottom. So if we've got the casing kletched
2 around tubing strings, packer stuck in the hole -- the well
3 also has to hold fluid to be able to plug it, and if we
4 should have holes in the casing, we could have problems
5 plugging.

6 Q. Okay. Now, Mr. Prichard, you're aware from the
7 prior Saba case that there's another operator who may be
8 interested in two of those Tatum wells; is that right?

9 A. Yes, ma'am, I sure am.

10 Q. And those are two of the wells that might pay for
11 themselves; is that right?

12 A. That's right.

13 Q. So unfortunately, the folks who are interested in
14 wells aren't interested in the ones that are expensive to
15 plug?

16 A. That's right, that is absolutely right.

17 Q. Okay. So if the State's lucky, we may be able to
18 pay for plugging the six wells using Saba's original
19 \$50,000 bond; is that right?

20 A. I think we would be extremely lucky if we were
21 able to do that, but there is a possibility of that.

22 Q. Okay, but if we're unlucky and we run into
23 problems or salvage values go down, that \$50,000 bond from
24 Saba may not be enough; is that right?

25 A. In my estimation, that's right.

1 MS. MacQUESTEN: I have no other questions of Mr.
2 Prichard.

3 EXAMINATION

4 BY EXAMINER CATANACH:

5 Q. Mr. Prichard, is there a reason why those San
6 Simon wells haven't been inspected?

7 A. David, I don't know.

8 Q. Okay, but you just never got down there?

9 A. No, I didn't.

10 Q. It's a pretty good ways from Hobbs, if I recall.
11 Probably take you a whole day to do that?

12 A. Well, it's outside my normal inspection. I have
13 everything from Lovington north, and I think when I
14 originally started the Saba stuff, David Brooks was the new
15 Division attorney, and I visited with David about it, if I
16 remember right, and the San Simon wells were not showing
17 any production, just like the four wells at Tatum. So we
18 went ahead and included them in the original hearing, and
19 all I did was look at the well files and the production and
20 wrote plugging procedures on them, so I have not looked at
21 those wells.

22 Q. Okay. If you encounter casing leaks, do you
23 normally -- would you squeeze -- try and squeeze the
24 casing, Billy?

25 A. If I can squeeze it. You know, sometimes you

1 can't pump into it and you've got to spot a plug across it,
2 WOC it. Sometimes just the action of spotting a plug
3 across a hole in the casing or perf'd holes sometimes opens
4 them up. But you know, generally with a hole in the casing
5 you either squeeze it or spot cement across it.

6 EXAMINER CATANACH: Okay. I think that's all I
7 have of Mr. Prichard.

8 MS. MacQUESTEN: Okay, thank you, Mr. Prichard.

9 MR. PRICHARD: Yes, ma'am.

10 MS. MacQUESTEN: I'd move for admission of
11 Exhibits 1 through 29.

12 EXAMINER CATANACH: Exhibits 1 through 29 will be
13 admitted.

14 Just, I guess, in summary, Ms. MacQuesten, what
15 the Division is seeking in this case is to -- a similar
16 action that was against Saba, the same type of relief?

17 MS. MacQUESTEN: That's right, Mr. Examiner.
18 What we're asking for is that the OCD hold Greka
19 responsible with Saba for bringing the wells into
20 compliance -- liability. Greka is an operator under the
21 definition, because it acquired Saba's interest in the
22 properties, took responsibility by posting the bond, let a
23 contractor do a work on at least one of the wells under its
24 name, had signs under a Greka name on at least four of the
25 wells and filed documents under a Greka name on three of

1 the wells. So they are an operator.

2 We would ask the Examiner to treat both Saba and
3 Greka as operators of these wells and give Greka the same
4 December 31st, 2004, deadline to bring the wells into
5 compliance. That's the most distant deadline given in the
6 Commission case against Saba.

7 Then if neither Greka nor Saba bring the wells
8 into compliance, allow the State to plug the wells. For
9 that purpose, we've asked you to authorize us to forfeit
10 Greka's bond, as well as Saba's, if it's necessary to cover
11 the cost of the plugging.

12 EXAMINER CATANACH: Okay.

13 MS. MacQUESTEN: We ask for penalties in this
14 case because we do believe that Greka is responsible with
15 Saba for bringing these wells into compliance, and that
16 they have acted in flagrant disregard of OCD Rules. They
17 have been simply irresponsible. They have acted as
18 operator without going through the process of becoming the
19 operator of record. They have been aware of the need to
20 plug these wells since receiving the Application in the
21 Saba case. We're dealing with the same people at the same
22 address.

23 Now, Saba received a \$270,000 penalty for failing
24 to bring wells into compliance after issuance of the
25 Division Order on June 1st, 2004, until the Commission

1 Hearing on July 15th, 2004. I'd ask that you assess the
2 same \$270,000 penalty for Greka, for the same time period.
3 After all, they were aware of the need to bring these wells
4 into compliance, and failed to do so.

5 If you did this, you could make Greka and Saba
6 jointly and severally liable. That way the OCD could
7 collect a maximum of \$270,000 in penalties, but we could
8 collect it from either Saba or Greka.

9 An alternative would be to simply assess a
10 penalty against Greka itself. I tried to do some math on
11 this, and if you imposed \$1000 per well per day after
12 receipt of the Application in this case until today, we'd
13 come up to \$288,000.

14 Again, the OCD really only asks that you hold
15 Greka and Saba jointly and severally liable in this case,
16 and on the same \$270,000 amount that Saba is currently
17 liable for.

18 EXAMINER CATANACH: So you're not really seeking
19 a new fine for Greka; you're just seeking them to be --

20 MS. MacQUESTEN: Exactly.

21 EXAMINER CATANACH: -- in joint --

22 MS. MacQUESTEN: Exactly.

23 EXAMINER CATANACH: Okay, that makes sense. And
24 you would give them a deadline of December 31st to take any
25 action to do something with these wells?

1 MS. MacQUESTEN: That way we would have the same
2 deadline in the Saba case and in the Greka case.

3 EXAMINER CATANACH: Okay.

4 MS. MacQUESTEN: The Saba case imposed several
5 different deadlines for different wells, based on the
6 circumstances, but December 31st was the last deadline in
7 that case.

8 EXAMINER CATANACH: Okay. Did -- Were you able
9 to provide notice to Greka in this case?

10 MS. MacQUESTEN: Yes, we did. The notice
11 affidavit will show that we got a receipt from them at that
12 Santa Maria, California, address, and that's the address
13 that the attorney for Saba told us to use to get in touch
14 with Saba as well.

15 EXAMINER CATANACH: How about the bonding
16 company? Were we able to notice them?

17 MS. MacQUESTEN: I believe we were, and that
18 should be in the affidavit of notice also.

19 EXAMINER CATANACH: Okay.

20 MS. MacQUESTEN: Yes, we received return receipts
21 from Fidelity and Deposit Company.

22 EXAMINER CATANACH: Do you know what the status
23 is of the parties that may want to assume operatorship of
24 two of the wells?

25 MS. MacQUESTEN: I have not -- I have been in

1 touch with their lawyer about this case. In fact, he was
2 the person who provided me with several of the exhibits in
3 this case. But we didn't talk about whether the Hartons
4 had taken any steps to becoming the operator of those two
5 wells, so I don't know if they are or are not going to take
6 over those wells.

7 EXAMINER CATANACH: Okay, I think that's all I
8 have.

9 There being nothing further in this case, Case
10 13,363 will be taken under advisement.

11 And if I'm not mistaken, we'll adjourn this
12 hearing at this time.

13 (Thereupon, these proceedings were concluded at
14 3:28 p.m.)

15 * * *

16
17
18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 13363
21 heard by me on November 14, 2000.
22 *David R. Catnach* Examiner
23 Oil Conservation Division
24
25

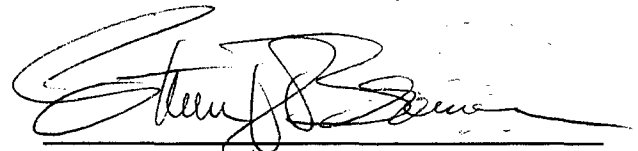
CERTIFICATE OF REPORTER

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 November 29th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006