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. 12792

THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLUG (7) SEVEN WELLS, IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS IN DEFAULT OF COMPLIANCE BY KELLY H. BAXTER OR HIS SURETY, AND ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND, LEA COUNTY, NEW MEXICO.

ORDER NO. R-11840-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 at Santa Fe, New Mexico on the application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring Kelly H. Baxter (hereinafter referred to as "the operator" or "Kelly H. Baxter") to properly plug and abandon inactive wells in Lea County, for an order authorizing the Division to plug the wells in the event the operator or its surety fails to do so, providing for forfeiture of the plugging bond if necessary, and requesting assessment of civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 17th day of April, 2003,

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 herein.

2. This matter is before the Commission on application of the operator for review *de novo*.

3. This matter concerns seven (7) inactive wells in Lea County, New Mexico operated by Kelly H. Baxter:

API Number	Well Name & Number	Well Location
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E*
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E*
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E*
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

4. The Division originally sought plugging and abandonment of all the wells listed in paragraph 3. The Division now seeks plugging and abandonment of four wells, as the remaining wells have been plugged and abandoned. The Division seeks forfeiture of the relevant financial assurance in the event the operator fails to plug and abandon the remaining four wells, and seeks civil penalties for failure to comply with the lawful orders and directives of the Division, but the Division suggests that such penalties be suspended ~~and imposed only~~ if the operator ~~does not~~ plug the remaining four wells within a reasonable time.

(marked with an "*")

5. The Division appeared through its counsel and presented evidence. The operator appeared through his counsel who made a statement on his behalf.

6. The Division's filing in this matter originates from a project of the Division referred to as the "Inactive Well Project." This project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

7. Rule 201 of the rules and regulations of the Division specifies that any well that is no longer usable for beneficial purposes or that has been continuously inactive for a period of one year or that has not produced sixty days after the suspension of drilling operations, must be properly plugged or temporarily abandoned:

> B. A well shall be either plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after: (1) a sixty (60) day period following suspension of drilling operations, or (2) a determination that a well is no longer usable for beneficial purposes, or (3) a period of one (1) year in which a well has been continuously inactive.

19.15.4.201 (B) NMAC (12-14-01).

8. The evidence presented by the Division indicates that the operator reported no production from any of the wells listed above since 1998 and no production reports were filed at all on any of the wells in 1997, and that no permit for temporary abandonment has been requested by the operator or approved by the Division.

9. Division employees attempted to persuade the operator to properly plug and abandon the wells. Correspondence between the Division and the operator regarding the wells began in August 1998. Prior to the hearing before the Division, Division employees contacted the operator on numerous occasions, but the operator was essentially unresponsive.

10. Despite his failure to communicate with Division personnel, the operator has nevertheless made some attempts to correct the situation. Of the wells that are the subject of the Division's application, three, the Wallen Fee No. 1, the Wallen Fee No. 2 and the State "26" No. 1 were voluntarily plugged and abandoned prior to the date of the hearing. Division personnel witnessed the operation and were apparently satisfied with the quality of the work.

11. The operator also apparently performed some work on the Speight No. 1 and the State "FP" several years ago in an attempt to bring those wells into compliance as well. However, the work was never completed and required testing was not accomplished.

12. The operator's statement to the Commission during the hearing of this matter (made on the operator's behalf by its attorney) seems to indicate that he understands his obligations to plug the remaining wells and intends to do so, but needs additional time to complete the work. The operator's statement indicates that a contractor was hired to complete the plugging and abandonment of the remaining wells but the contractor (who also performs work under contract with the State on occasions) had not plugged the wells as of the date of the hearing, and the contractor was unwilling to commit to a date certain when the work could be completed. Another contractor contacted by the operator could possibly do the work more quickly, but that contractor is unable to pull casing, and the operator desires to recover the casing so as to ameliorate the cost of plugging. The operator [redacted] suggested in his statement that the Commission issue an order that provides him a specified time to complete the remaining work, and also suggests that penalties not be imposed if he complies.

13. The operator's statement also indicates that the operator agrees the wells should be plugged and abandoned. It appears from the statement that the operator also agrees that the wells are no longer usable for beneficial purposes. *See* 19.15.4.201(B)(2)

NMAC. There being no dispute concerning the plugging and abandonment of these wells, they should be plugged and abandoned forthwith. The dispute with the operator's present plugging contractors should not affect this finding. A Division witness testified that other plugging contractors exist besides those referred to by the operator; if the present contractors will not agree to perform the work, other contractors should be arranged to complete it. The four (4) wells described should be plugged and abandoned by the operator in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before October 17, 2003.

14. The evidence presented by the Division indicates that the operator has on deposit with the Division a $50,000 blanket plugging bond, No. B03872, issued by Underwriter's Indemnity. The blanket plugging bond is conditioned upon compliance with the statutes of the State of New Mexico and the rules of the Division with respect to the proper plugging and abandonment of the wells operated by the operator. The record of these proceedings indicate that Underwriter's Indemnity was served with notice of these proceedings.

15. Should the operator not properly plug and abandon the above-referenced wells by October 17, 2003, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

16. The Oil and Gas Act, NMSA Section 70-2-31(A), provides for a civil penalty up to $1,000 per violation for knowingly or willfully violating any provision of the Oil and Gas Act or regulations of the Oil Conservation Division:

> Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for each violation.

17. Pursuant to the foregoing, a civil penalty in the amount of one thousand dollars ($1,000) per unplugged well per day should be assessed beginning October 18, 2003 until the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to the plugging procedures approved by the supervisor of the Division's Hobbs District Office.

IT IS THEREFORE ORDERED THAT:

1. The operator is hereby ordered to plug and abandon the State "FP" No. 1, the State "WES" No. 1, the Speight No. 1 and the Speight No. 2, described more fully above,

site cleanup may take longer >>

no later than October 17, 2003. In addition, the operator is hereby ordered to perform any remaining matters (such as site clean up, remediation, etc.) and properly complete and file with the Division remaining documentation concerning the plugging and abandonment of the State "26" No. 1, the Wallen Fee No. 1 and the Wallen Fee No. 2, by this date.

what about the site cleanup on the other four wells?

2. Prior to plugging and abandoning the above-described wells, the operator shall obtain from the supervisor of the Division's Hobbs District Office an approved plugging program and shall notify the supervisor of the Division's Hobbs District Office of the date and time this work is to commence so that the Division may witness such work.

3. Should the operator fail or refuse to carry out such provisions in accordance with the terms of this Order, the Division Director ~~shall then~~ take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

→ is authorized to

4. In addition, should the operator fail or refuse to carry out the provisions of this order as described herein, a civil penalty in the amount of one thousand dollars ($1,000) per unplugged well per day shall be and hereby is assessed beginning October 18, 2003 and continue to be assessed at this rate until the date the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to an approved plugging program of the supervisor of the Division's Hobbs District Office.

5. Jurisdiction of this case is 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

LORI WROTENBERY, CHAIR

(rather than plugging the wells, we may want to pursue other action to enforce the order)

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

S E A L

Kelly H. Baxter
⇒ the operator

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. 12792

THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLUG (7) SEVEN WELLS, IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS IN DEFAULT OF COMPLIANCE BY KELLY H. BAXTER OR HIS SURETY, AND ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND, LEA COUNTY, NEW MEXICO.

ORDER NO. R-11840-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

(Hereinafter referred to as "Kelly H. Baxter" or "the operator")

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 at Santa Fe, New Mexico on the application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring Kelly H. Baxter to properly plug and abandon inactive wells in Lea County, for an order authorizing the Division to plug the wells in the event the operator or its surety fails to do so, providing for forfeiture of the plugging bond if necessary, and requesting the assessment of appropriate civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 17th day of April, 2003,

FINDS,

1. Notice has been given of the application and the hearing on this matter, and the Commission has jurisdiction of the parties and the subject matter herein.

Q2 (Baxter) 3

2. This matter concerns seven (7) inactive wells in Lea County, New Mexico operated by Kelly H. Baxter ~~described below.~~

API Number	Well Name & Number	Well Location

30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E*
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E*
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E*
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

3. The Division originally sought plugging and abandonment of all the wells listed in paragraph 2. The Division now seeks plugging and abandonment of four wells, as the remaining wells have been plugged and abandoned pursuant to the rules and regulations of the Division. The Division seeks forfeiture of the relevant financial assurance in the event Kelly H. Baxter fails to plug and abandon the remaining four wells, and seeks civil penalties for failure to comply with the lawful orders and directives of the Division, but the Division suggests that such penalties be suspended and imposed only if Kelly H. Baxter does not plug the remaining four wells within a reasonable time.

4. The Division appeared through its counsel and presented evidence. Kelly H. Baxter appeared through his counsel who made a statement on his behalf.

5. The Division's filing in this matter originates from a project of the Oil Conservation Division referred to as the "Inactive Well Project." This project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

<>. The Oil and Gas Act, NMSA Section 70-2-31(A), provides for a civil penalty up to $1,000 per violation for knowingly or willfully violating any provision of the Oil and Gas Act or regulations of the Oil Conservation Division:

> Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for each violation.

6. The evidence presented by the Division indicates that Kelly H. Baxter reported no production from any of the wells listed above since 1998, and no production reports were filed at all on any of the wells in 1997.

7. Division employees attempted to persuade Mr. Baxter to properly plug and abandon the wells. Correspondence between the Division and Kelly H. Baxter regarding the wells began in August 1998. Prior to the hearing before the Division, Division employees contacted Mr. Baxter on numerous occasions, but Mr. Baxter was essentially unresponsive.

8. Despite his failure to communicate with Division personnel, Kelly H. Baxter has nevertheless made some attempts to correct the present situation. Of the wells that are the subject of the Division's application, three, the Wallen Fee No. 1, the Wallen Fee No. 2 and the State 26 No. 1 were voluntarily plugged and abandoned. Division personnel witnessed the operation and were apparently satisfied with the quality of the work.

9. ~~Mr. Baxter~~ the operator also apparently performed some work on the Speight No. 1 and the State "FP" several years ago in an attempt to bring those wells into compliance as well. However, the work was never completed and required testing was not accomplished.

10. The evidence thus demonstrates that the remaining unplugged wells have not produced hydrocarbons and have been inactive for several years, and that no permit for temporary abandonment has been requested by the operator or approved by the Division. ~~By virtue of the failure to use these wells for beneficial purposes or to have approved temporary abandonment permits, Kelly H. Baxter~~ is presumed to have abandoned the subject wells.

11. The current condition of these wells is such that if action is not taken to properly plug and abandon them, waste may occur and correlative rights may be violated, and the public health and safety and fresh water may be endangered.

12. The evidence presented by the Division indicates that ~~Kelly H. Baxter~~ the operator has on deposit with the Division a $50,000 blanket plugging bond, No. B03872, issued by Underwriter's Indemnity. The blanket plugging bond is conditioned upon compliance with the statutes of the State of New Mexico and the rules of the Division with respect to the proper plugging and abandonment of the wells operated by ~~Kelly H. Baxter~~ the operator. The record of these proceedings indicate that Underwriter's Indemnity was served with notice of these proceedings.

13. ~~Mr. Baxter~~'s statement (made on his behalf by his attorney) to the Commission during the hearing of this matter seems to indicate that he understands his obligations to plug the remaining wells and intends to do so, but needs additional time to complete the work. ~~Mr. Baxter~~'s statement indicates that a contractor was hired to complete the plugging and abandonment of the remaining wells but the contractor (who also performs work under contract with the State on occasions) had not plugged the wells as of the date of the hearing, and the contractor was unwilling to commit to a date certain when the work could be completed. Another

contractor could possibly do the work more quickly, but that contractor is unable to pull casing, and Mr. Baxter desires to recover the casing so as to ameliorate the cost of plugging. Mr. Baxter suggested in his statement that the Commission issue an order that provides him a specified time to complete the remaining work, and also suggests that penalties not be imposed if he complies.

14. The statement of Kelly H. Baxter indicates that he agrees the wells should be plugged and abandoned. There being no dispute concerning the plugging and abandonment of these wells, they should be plugged and abandoned forthwith. The four (4) wells described should be plugged and abandoned by Kelly H. Baxter in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before ~~September 1~~, 2003.

15. Should Kelly H. Baxter not properly plug and abandon the above-referenced wells by ~~September 1,~~ 2003, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from Kelly H. Baxter any costs of plugging the wells in excess of the amount of the bond.

16. ~~In addition,~~ A civil penalty in the amount of $1,000 per unplugged well per day should be assessed beginning ~~September 2,~~ 2003 until the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to the plugging procedures approved by the supervisor of the Division's Hobbs District Office.

IT IS THEREFORE ORDERED THAT:

1. Kelly H. Baxter is hereby ordered to plug and abandon the State "FP" No. 1, the State "WES" No. 1, the Speight No. 1 and the Speight No. 2, described more fully above, no later than September 1, 2003. In addition, Kelly H. Baxter is hereby ordered to perform any remaining matters (such as site clean up, remediation, etc.) and properly complete and file with the Division remaining documentation concerning the plugging and abandonment of the State "26" No. 1, the Wallen Fee No. 1 and the Wallen Fee No. 2.

2. Prior to plugging and abandoning the above-described wells, Kelly H. Baxter shall obtain from the supervisor of the Division's Hobbs District Office an approved plugging program and shall notify the supervisor of the Division's Hobbs District Office of the date and time this work is to commence whereupon the Division may witness such work.

3. Should Kelly H. Baxter fail or refuse to carry out such provisions in

accordance with the terms of this Order, the Division Director shall then take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from Kelly H. Baxter any costs of plugging the wells in excess of the amount of the bond.

4. In addition, should Kelly H. Baxter fail or refuse to carry out the provisions of this order as described herein, a civil penalty in the amount of $1,000 unplugged well per day should be assessed beginning September 2, 2003 until the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to an approved plugging program of the supervisor of the Division's Hobbs District Office.

5. Jurisdiction of this case is 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

LORI WROTENBERY, CHAIR

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

S E A L

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. 12792

THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLUG (7) SEVEN WELLS, IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS IN DEFAULT OF COMPLIANCE BY KELLY H. BAXTER OR HIS SURETY, AND ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND, LEA COUNTY, NEW MEXICO.

ORDER NO. R-11840-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 at Santa Fe, New Mexico on the application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring Kelly H. Baxter (hereinafter referred to as "the operator" or "Kelly H. Baxter") to properly plug and abandon inactive wells in Lea County, for an order authorizing the Division to plug the wells in the event the operator or its surety fails to do so, providing for forfeiture of the plugging bond if necessary, and requesting assessment of civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this 17th day of April, 2003,

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 herein.

2. This matter is before the Commission on application of the operator for review *de novo*.

3. This matter concerns seven (7) inactive wells in Lea County, New Mexico operated by Kelly H. Baxter:

API Number	Well Name & Number	Well Location
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E*
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E*
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E*
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

4. The Division originally sought plugging and abandonment of all the wells listed in paragraph 3. The Division now seeks plugging and abandonment of four wells, as the remaining wells have been plugged and abandoned. The Division seeks forfeiture of the relevant financial assurance in the event the operator fails to plug and abandon the remaining four wells, and seeks civil penalties for failure to comply with the lawful orders and directives of the Division, but the Division suggests that such penalties be suspended and imposed only if the operator does not plug the remaining four wells within a reasonable time.

5. The Division appeared through its counsel and presented evidence. The operator appeared through his counsel who made a statement on his behalf.

6. The Division's filing in this matter originates from a project of the Division referred to as the "Inactive Well Project." This project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

7. Rule 201 of the rules and regulations of the Division specifies that any well that is no longer usable for beneficial purposes or that has been continuously inactive for a period of one year or that has not produced sixty days after the suspension of drilling operations, must be properly plugged or temporarily abandoned:

> B. A well shall be either plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after: (1) a sixty (60) day period following suspension of drilling operations, or (2) a determination that a well is no longer usable for beneficial purposes, or (3) a period of one (1) year in which a well has been continuously inactive.

19.15.4.201 (B) NMAC (12-14-01).

8. The evidence presented by the Division indicates that the operator reported no production from any of the wells listed above since 1998 and no production reports were filed at all on any of the wells in 1997, and that no permit for temporary abandonment has been requested by the operator or approved by the Division.

9. Division employees attempted to persuade the operator to properly plug and abandon the wells. Correspondence between the Division and the operator regarding the wells began in August 1998. Prior to the hearing before the Division, Division employees contacted the operator on numerous occasions, but the operator was essentially unresponsive.

10. Despite his failure to communicate with Division personnel, the operator has nevertheless made some attempts to correct the situation. Of the wells that are the subject of the Division's application, three, the Wallen Fee No. 1, the Wallen Fee No. 2 and the State "26" No. 1 were voluntarily plugged and abandoned prior to the date of the hearing. Division personnel witnessed the operation and were apparently satisfied with the quality of the work.

11. The operator also apparently performed some work on the Speight No. 1 and the State "FP" several years ago in an attempt to bring those wells into compliance as well. However, the work was never completed and required testing was not accomplished.

12. The operator's statement to the Commission during the hearing of this matter (made on the operator's behalf by its attorney) seems to indicate that he understands his obligations to plug the remaining wells and intends to do so, but needs additional time to complete the work. The operator's statement indicates that a contractor was hired to complete the plugging and abandonment ~~of the remaining wells~~ but the contractor (who also performs work under contract with the State on occasions) had not plugged the wells as of the date of the hearing, and the contractor was unwilling to commit to a date certain when the work could be completed. Another contractor contacted by the operator could possibly do the work more quickly, but that contractor is unable to pull casing, and the operator desires to recover the casing so as to ameliorate the cost of plugging. The operator ~~Baxter~~ suggested in his statement that the Commission issue an order that provides him a specified time to complete the remaining work, and also suggests that penalties not be imposed if he complies.

13. The operator's statement also indicates that the operator agrees the wells should be plugged and abandoned. It appears from the statement that the operator also agrees that the wells are no longer usable for beneficial purposes. *See* 19.15.4.201(B)(2)

NMAC. There being no dispute concerning the plugging and abandonment of these wells, they should be plugged and abandoned forthwith. The dispute with the operator's present plugging contractors should not affect this finding. A Division witness testified that other plugging contractors exist besides those referred to by the operator; if the present contractors will not agree to perform the work, other contractors should be arranged to complete it. The four (4) wells described should be plugged and abandoned by the operator in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before October 17, 2003.

14. The evidence presented by the Division indicates that the operator has on deposit with the Division a $50,000 blanket plugging bond, No. B03872, issued by Underwriter's Indemnity. The blanket plugging bond is conditioned upon compliance with the statutes of the State of New Mexico and the rules of the Division with respect to the proper plugging and abandonment of the wells operated by the operator. The record of these proceedings indicate that Underwriter's Indemnity was served with notice of these proceedings.

15. Should the operator not properly plug and abandon the above-referenced wells by October 17, 2003, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

16. The Oil and Gas Act, NMSA Section 70-2-31(A), provides for a civil penalty up to $1,000 per violation for knowingly or willfully violating any provision of the Oil and Gas Act or regulations of the Oil Conservation Division:

> Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for each violation.

17. Pursuant to the foregoing, a civil penalty in the amount of one thousand dollars ($1,000) per unplugged well per day should be assessed beginning October 18, 2003 until the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to the plugging procedures approved by the supervisor of the Division's Hobbs District Office.

IT IS THEREFORE ORDERED THAT:

1. The operator is hereby ordered to plug and abandon the State "FP" No. 1, the State "WES" No. 1, the Speight No. 1 and the Speight No. 2, described more fully above,

no later than October 17, 2003. In addition, the operator is hereby ordered to perform any remaining matters (such as site clean up, remediation, etc.) and properly complete and file with the Division remaining documentation concerning the plugging and abandonment of the State "26" No. 1, the Wallen Fee No. 1 and the Wallen Fee No. 2, by this date.

2. Prior to plugging and abandoning the above-described wells, the operator shall obtain from the supervisor of the Division's Hobbs District Office an approved plugging program and shall notify the supervisor of the Division's Hobbs District Office of the date and time this work is to commence so that the Division may witness ~~such~~ the work.

3. Should the operator fail or refuse to carry out such provisions in accordance with the terms of this Order, the Division Director shall then take such action as is deemed necessary to plug and abandon these wells, to declare forfeiture of the bond furnished by the operator to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing, and to recover from the operator any costs of plugging the wells in excess of the amount of the bond.

4. In addition, should the operator fail or refuse to carry out the provisions of this order as described herein, a civil penalty in the amount of one thousand dollars ($1,000) per unplugged well per day shall be and hereby is assessed beginning October 18, 2003 and continue to be assessed at this rate until the date the wells are properly plugged and abandoned according to the rules and regulations of the Division and according to an approved plugging program of the supervisor of the Division's Hobbs District Office.

5. Jurisdiction of this case is 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

LORI WROTENBERY, CHAIR

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

S E A L

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. 12862

IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING N. DALE NICHOLS TO BRING EIGHT (8) WELLS INTO COMPLIANCE WITH RULE 201.B AND ASSESSING APPROPRIATE CIVIL PENALTIES; CHAVES COUNTY, NEW MEXICO.

ORDER NO. R-11859-A

ORDER OF THE OIL CONSERVATION COMMISSION

BY THE COMMISSION:

THIS MATTER, having come before the Oil Conservation Commission (hereinafter referred to as "the Commission") on February 27, 2003 and March 20, 2003 at Santa Fe, New Mexico on application of the Oil Conservation Division (hereinafter referred to as "the Division") for an order requiring N Dale Nichols (hereinafter referred to as "the operator" or as "N. Dale Nichols") to bring eight (8) wells in Chavez County, New Mexico into compliance with Rule 201(B), <> NMAC, and assessing appropriate civil penalties, and the Commission, having carefully considered the evidence, the pleadings and other materials submitted by the parties hereto, now, on this <> day of April, 2003, 19.15.4.201(B) 17th

FINDS,

1. Notice has been given of the application and the hearing on this matter, and the Commission has jurisdiction of the parties and the subject matter herein.

2. This matter is before the Commission on application of the operator for review *de novo*.

3. This matter concerns eight (8) wells in Chavez County, New Mexico operated by N. Dale Nichols:

(a) The Lewis Neff Well No. 4 (**API No. 30-005-00224**), located 330 feet from the South line and 2310 feet from the East line (Unit O) of Section 32, Township 7 South, Range 27 East, NMPM (hereinafter referred to as "the Lewis Neff No. 4");

(**b**) The Lewis Neff Well No. 3 (**API No. 30-005-10432**), located 660 feet from the South and East lines (Unit P) of Section 32, Township 7 South, Range 27 East, NMPM (hereinafter referred to as "the Lewis Neff No. 3");

(**c**) The Alma Shields Well No. 7 (**API No. 30-005-62567**), located 990 feet from the South line and 1650 feet from the West line (Unit N) of Section 33, Township 7 South, Range 27 East, NMPM (hereinafter referred to as "the Alma Shields No. 7");

(**d**) The Avalanche Journal State Well No. 4 (**API No. 30-005-10471**), located 2310 feet from the South line and 1650 feet from the West line (Unit K) of Section 4, Township 8 South, Range 27 East, NMPM (hereinafter referred to as "the Avalanche Journal No. 4");

(**e**) The Standard State Well No. 3 (**API No. 30-005-10429**), located 990 feet from the North line and 1650 feet from the East line (Lot 2/Unit B) of Section 5, Township 8 South, Range 27 East, NMPM (hereinafter referred to as "the Standard State No. 3");

(**f**) The Standard State Well No. 6-Y (**API No. 30-005-10513**), located 2310 feet from the North and East lines (Unit G) of Section 5, Township 8 South, Range 27 East, NMPM (hereinafter referred to as "the Standard State No. 6-Y");

(**g**) The State "A" Well No. 2 (**API No. 30-005-00232**), located 660 feet from the South and East lines (Unit P) of Section 7, Township 8 South, Range 27 East, NMPM (herinafter referred to as "the State "A" No. 2"); and

(**h**) The Lynx Well No. 1 (**API No. 30-005-62160**), located 1815 feet from the North line and 1980 feet from the East line (Unit G) of Section 19, Township 8 South, Range 29 East, NMPM (hereinafter referred to as "the Lynx Well No. 1").

4. In this matter, the Division originally sought an order directing the operator to bring all of the above-described wells into compliance with Rule 201.B, ~~19.15.4.201(B) NMAC,~~ either by restoring the wells to production or other Division-approved beneficial use, properly plugging and abandoning the wells in accordance with Rule 202.B (19.15.4.202(B) NMAC), or obtaining permission to maintain the wells in temporary abandonment status in accordance with Rule 203 (19.15.4.203 NMAC).

5. However, since the application was filed, the operator has brought all of the wells except the Lynx Well No. 1 into compliance with the rules and regulations of the Division. The Division still seeks a compliance order concerning the Lynx Well No. 1, and also seeks imposition of civil penalties based upon the failure of the operator to comply with the rules and regulations of the Division when notified of the violations.

6. The Lynx Well No. 1 was mistakenly dismissed during the Division's proceedings upon the belief that production from the well had resumed; as the evidence described herein

indicates that production from the well has not in fact resumed, it will also be considered here.

6

<>. The Division ~~also~~ indicated that notice concerning the Alma Shields No. 7 (see paragraph (3)(c), above) was defective, and notes that the Division's application concerning this well was dismissed ~~by the Division~~ and is not before the Commission. This well will not be considered here and the Division's dismissal of this well should be ~~confirmed~~. affirmed.

7

<>. The Division appeared through its counsel and presented evidence and the testimony of several witnesses. The operator appeared through ~~his~~ its counsel and presented evidence and testimony.

8

<>. The Division's filing in this matter originates from a project of the Oil Conservation Division referred to as the "Inactive Well Project." The Inactive Well Project seeks to identify wells that have not produced for two years or more and have not complied with the requirements for temporary abandonment or plugging and abandonment. The operator is notified of the discrepancy by letter and is requested to bring the wells into compliance with the rules and regulations of the Division.

9

<> Rule 201 specifies that any well that is no longer usable for beneficial purposes, that has been continuously inactive for a period of one year, or that has not produced sixty days after the suspension of drilling operations must be properly plugged or temporarily abandoned:

> B. A well shall be either plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after: (1) a sixty (60) day period following suspension of drilling operations, or (2) a determination that a well is no longer usable for beneficial purposes, or (3) a period of one (1) year in which a well has been continuously inactive.

19.15.4.201 (B) NMAC (12-14-01).

10

<> N. Dale Nichols was first notified pursuant to the Inactive Well Project that the wells described above were inactive and therefore subject to the provision of Rule 201(B) on May 11, 2000. The operator did not respond to the May 11, 2000 letter, and on September 8, 2000, the Division directed the operator to bring the wells into compliance within sixty days or submit a plan to do so. N. Dale Nichols visited the Artesia District Office on December 23, 2000 and proposed such a plan ~~(the details of which are described below)~~, which was submitted in written form on January 8, 2001. The Artesia District Office approved the plan and informed ~~Mr. Nichols~~ the operator that ~~he~~ it must complete the plan no later than January 1, 2002.

11.

<> Of the group of seven wells before the Commission in this matter, one well remains out of compliance with Rule 201(B). ~~It is~~ the Lynx Well No. 1. The operator has reported zero production of oil or gas from the well since 1997. It appears

therefore that the well ~~have~~ has been continuously inactive for over five years. *See* 19.15.4.201(B)(B)(1) NMAC. The operator filed a Notice of Intent to plug and abandon the well on November 28, 2001, and it appears from this filing that the well is no longer usable for beneficial purposes. *See* 19.15.4.201(B)(2) NMAC.

12. The remaining wells appear to be in compliance with Rule 201(B) at this time, although they were not compliance for a substantial amount of time. The operator was notified on May 11, 2000 that each well was inactive and needed to be addressed, ~~The operator was notified~~ on November 5, 1997 that the Lewis Neff No. 3 was inactive and should be addressed.

13. January 8, 2001 In its correspondence to the Division, the operator promised to bring all the wells back into compliance by particular dates; in all cases, the wells remained out of compliance long after the dates when full compliance ~~was~~ has been assured. For example, the operator proposed to restore production from the Avalanche Journal No. 4 no later than May 1, 2001, but production was not restored until July 2002. The operator proposed to temporarily abandon the Lewis Neff No. 3 no later than June 15, 2001, but the well was not placed in temporarily abandoned status until December 3, 2002. The operator proposed to restore production from the Lewis Neff No. 4 no later than October 1, 2001, but production was not restored until April 2, 2002. The operator proposed to restore production from the Standard State No. 3 no later than April 1, 2001, but production was not restored until August or September 2002. The operator proposed to plug and abandon the Standard State No. 6-Y no later than September 1, 2001, but the well was not plugged and abandoned until June 3, 2002 (the Division was not notified that the well had been plugged and abandoned until after October 28 or 29, 2002, and it was subsequently inspected by the Division and the plugging and abandonment approved on December 17, 2002). The operator proposed to restore production from the State "A" No. 2 no later than August 1, 2001, but production was not restored until April 2002.

15. The operator presented testimony that it is a father-son operation and both father and son have been ill during the past one and one-half years, and these health problems have been the cause of the delay described by the Division. The operator commented that it has made a good faith effort to bring the wells into compliance within a reasonable time, and its good faith is ~~demonstrated by the work performed to date~~.

16. It appears ~~from the foregoing~~ that serious violations of Rule 201(B) have occurred, and all seven wells were out of compliance with Rule 201(B) for many years each.

17. While the Commission appreciates the operator's efforts to comply with the directives of the Division and the Inactive Well Project and certainly emphasizes with the health problems suffered by its principals, the Commission must also consider the potential threat to ~~the~~ fresh water and other ~~formations and~~ strata posed by inactive wells. It is important that wells be properly serviced and ~~are~~ be plugged and abandoned promptly when no longer useful for the production of oil or gas.

17 The Lynx Well No. 1 is of particular concern at this time. As noted, the well is the only well out of compliance at this time, and the operator made an unsuccessful attempt in 2001 to plug and abandon the well. The operator's attorney stated during the hearing of this matter that the well suffered serious mechanical problems during the plugging attempt and the casing collapsed preventing the tubing from being removed, which of course is necessary before the well can be properly plugged and abandoned. He also stated that a significant amount of additional work will be required to remedy the situation including fishing the tubing from the well, milling and swedging the casing, and taking other measures to ensure that tools can be taken to the bottom of the well to facilitate plugging. The Division's witness testified that a packer is stuck in the well and 31 joints of tubing are cut off and remain in the well above the packer, but the casing has not collapsed making removal of the tubing and plugging comparatively easier. The operator's witness presented a copy of a C-103 (Exhibit N-2) that had been prepared and submitted to the Division just prior to the hearing. From this document, the operator seemed to argue that the Lynx Well No. 1 has in fact been plugged and abandoned except for placement of a dry hole marker and surface clean up.

18 However, Exhibit N-2 is inherently inconsistent. The document seems to be a notice of intent to plug and abandon the well, but also seems to indicate that the well has already been plugged and abandoned. ~~Moreover,~~ A Division witness testified that the only ~~approved~~ plugging and abandonment procedure ~~was that which was unsuccessful~~ that had been approved by the Division in 2001, and no plugging procedure had been approved to remedy the serious mechanical problems resulting from the 2001 plugging attempt. No evidence was presented concerning how the serious mechanical problem had been resolved, and the Division is presently unable to determine whether the well presents a danger to fresh water and other strata. ~~formations~~. Questions concerning the present status of the well must be resolved promptly.

19 The Lynx Well No. 1 is not in compliance with Rules 201(B), 202 and/or 203 and a compliance order should be issued with respect to this well.

20 On this basis, ~~The~~ the Division has requested imposition of a civil penalty in the amount of $15,000 in this matter, based upon the failure to the operator to bring the wells (including the Lynx Well No. 1) within a reasonable time. The Division proposes that a reasonable civil penalty for enforcement cases under the Inactive Well Project should be one thousand dollars per year from the date an operator is notified that a particular well is inactive until the date the well is actually brought into compliance.

22 ~~Thus, in this matter,~~ The Division urges that an appropriate penalty should be computed from the date the operator was first notified that the wells were out of compliance (May 11, 2000 for all the wells except for the Lewis Neff No. 3 where the operator was notified that it was inactive in 1997) to the date when the wells were actually brought into compliance. Accordingly, the Division recommends a civil penalty of $2,000 for the Avalanche Journal No. 4, $5,000 for the Lewis Neff No. 3, $1,000 for the Lewis Neff No. 4, $2,000 for the Lynx well No. 1, $2,000 for the Standard State No. 3, $2,000 for the Standard State No. 6-Y, and $1,000 for the State "A" No. 2.

23
<>. The Oil and Gas Act, NMSA § 70-2-31(A), provides for a civil penalty up to $1,000 per violation for knowingly or willfully violating any provision of the Oil and Gas Act or regulations of the Oil Conservation Division:

> Any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for each violation.

24
<> It is apparent that the operator knowingly and willfully failed to comply with Rule 201(B) by disregarding permitting its wells to become inactive for more than five years each, disregarding the many directives of the Inactive Well Program, failing to act consistent with the work plan the operator proposed, failing to meet reasonable deadlines imposed by the Artesia District Office, and <>. A civil penalty should therefore be assessed against N. Dale Nichols in the amount of fifteen thousand dollars.

25 [illegible]
<> ~~The~~ civil penalty referred to in the previous paragraph should, ~~however~~, be suspended if N. Dale Nichols brings the Lynx Well No. 1 into full compliance with rules and regulations of the Division no later than ~~September~~ 17, 2003 (including proper plugging and abandonment, satisfying the Artesia District Office that ~~if~~ the well has been in fact plugged and abandoned, that ~~it~~ was done properly and in a manner that will assure protection of ~~ground~~ water ~~supplies~~, ~~a~~ proper marker set, and ~~surface~~ clean-up and remediation ~~accomplished~~, and any required documents filed and approved). ~~The~~ overarching goal of the Inactive Well Program is to achieve compliance with the Rules and Regulations of the Division, ~~and to punish violations only where compliance cannot be achieved~~.

<(**b**) the Division first notified N. Dale Nichols by letter dated November 5, 1997 that the above-described Lewis Neff Well No. 3 was not in compliance with Rule 201.B, and demanded that the well be brought into compliance; <>>

IT IS THEREFORE ORDERED THAT:

1. The Application insofar as it relates to the Alma Shields No. 7 shall be and hereby is dismissed.

2. The operator, N. Dale Nichols of Midland, Texas is hereby ordered, no later than September 17, 2003, to bring the Lynx Well No. <> into full compliance with the rules and regulation of the Division, particularly Rule 201(B)(19.16.4.201(B) NMAC), Rule 202 (19.15.4.202 NMAC) and Rule 203 (19.15.4.203 NMAC). If the well has already been plugged and abandoned, the operator is ordered to satisfy the Artesia District Office that the plugging and abandonment was done properly and in a manner that will assure protection of ground water supplies, a proper marker set, and surface

clean-up and remediation accomplished, and any required document filed and approved. If the well has not been plugged and abandoned, the operator is ordered to comply with Rule 202(B) (19.15.4.202 NMAC) and satisfy the Artesia District Office that the plugging procedure chosen will fully resolve the mechanical problems present in the well.

3. If the operator fails to bring the Lynx Well No. 1 into full compliance as described in the previous paragraph by September 17, 2003, the supervisor of the Artesia District Office of the Division and Division legal counsel may commence proceedings to order that these wells be permanently plugged and abandoned by the operator or by the Division and forfeit the financial assurance, if any, provided by the operator pursuant to NMSA 1978, § 70-2-14 and Division Rule 101 (19.15.3.101 NMAC), or take such other and further action as they appropriate.

4. An administrative penalty shall be and hereby is assessed against N. Dale Nichols in this matter in the amount of fifteen thousand dollars ($15,000.00).

5. The civil penalty referred to in the previous paragraph should be suspended if N. Dale Nichols brings the Lynx Well No. 1 into full compliance with rules and regulations of the Division no later than September 17, 2003 (including proper plugging and abandonment, satisfying the Artesia District Office that if the well has been in fact plugged and abandoned, that it was done properly and in a manner that will assure protection of ground water supplies, a proper marker set, and surface clean-up and remediation accomplished, and any required document filed and approved). Contin

7. If not suspended by operation of the previous paragraph, the civil penalty herein assessed shall be paid no later than ~~October~~ November 17, 2003, by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Lori Wrotenbery, Director, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505.

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

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

CASE NO. 12792
ORDER NO. R-11840

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR AN ORDER REQUIRING KELLY H. BAXTER TO PROPERLY PLUG (7) SEVEN WELLS, IMPOSING CIVIL PENALTIES IN THE EVENT OF FAILURE TO COMPLY, AUTHORIZING THE DIVISION TO PLUG SAID WELLS IN DEFAULT OF COMPLIANCE BY KELLY H. BAXTER OR HIS SURETY, AND ORDERING A FORFEITURE OF APPLICABLE PLUGGING BOND, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on January 10 and September 5, 2002, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 8th day of October, 2002, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given and the Division has jurisdiction of this case and its subject matter.

(2) Kelly H. Baxter is the current owner and operator of the following described (7) seven wells located in Lea County, New Mexico:

API Number	Well Name & Number	Well Location
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

(3) At this time, the New Mexico Oil Conservation Division ("Division") seeks an order directing the operator to plug the above-described wells in accordance with a Division-approved plugging program and, if the operator fails to do so, authorizing the

Division to proceed to plug and abandon these wells and to: (i) declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing; (ii) take necessary and appropriate measures to recover from Kelly H. Baxter any costs of plugging the subject wells in excess of the amount of the bond; and (iii) impose a fine on the operator for failure to comply with this order.

(4) This case was originally heard at the hearing held on January 10, 2002, at which time both the Division and Kelly H. Baxter were represented by counsel. At that time, the Division requested that this case be continued to the September 5, 2002 docket in order to provide Kelly H. Baxter additional time to bring the subject wells into compliance with Division rules.

(5) This case was subsequently heard on September 5, 2002 at which time the Division presented evidence to support its position. A representative of the Division's Hobbs District Office (District I) presented testimony via telephone. Additional testimony was presented by representatives of the Division's Santa Fe Office.

(6) Kelly H. Baxter did not appear at the hearing on September 5, 2002.

(7) The evidence presented demonstrates that the subject wells have not produced hydrocarbons and have been inactive for several years, and that no permit for temporary abandonment has been requested by the operator or approved by the Division.

(8) By virtue of the failure to use these wells for beneficial purposes or to have approved temporary abandonment permits, Kelly H. Baxter is presumed to have abandoned the subject wells.

(9) Correspondence between the Division and Kelly H. Baxter regarding the subject wells began in August 1998.

(10) The current condition of the wells is such that if action is not taken to properly plug and abandon the wells, waste will probably occur, correlative rights will also be violated, livestock and wildlife may be subject to harmful contaminants, and fresh waters may be in danger of contamination.

(11) Evidence was presented showing that Kelly H. Baxter has posted a surety (blanket plugging) bond in the amount of $50,000.00 for all of his operations in the State of New Mexico in compliance with Sections 70-2-14, NMSA 1978 and Division Rule 101, which bond is conditioned upon compliance with the statutes of the State of New Mexico and the rules of the Division with respect to the proper plugging and abandonment of the wells operated by Kelly H. Baxter. Underwriters Indemnity Company is the surety on this

bond (Bond No. BO3872), executed January 18, 1993.

(12) In order to prevent waste and to adequately protect correlative rights and the environment, the seven (7) wells described in Finding No. (2) above should be plugged and abandoned by Kelly H. Baxter, in accordance with a program approved by the supervisor of the Division's Hobbs District Office, on or before November 15, 2002.

(13) Should Kelly H. Baxter not meet this November 15, 2002 plugging obligation, the Division Director should then be authorized to take such action as is deemed necessary to plug and abandon these wells, and to recover from the operator the plugging costs incurred by the Division.

IT IS THEREFORE ORDERED THAT:

(1) Kelly H. Baxter is hereby ordered to plug and abandon the following-described seven (7) wells in Lea County, New Mexico on or before November 15, 2002.

API Number	Well Name & Number	Well Location
30-025-21925	State "FP" No. 1	Unit O, Section 23, T-16S, R-33E
30-025-25238	Wallen Fee No. 1	Unit D, Section 28, T-20S, R-34E
30-025-25283	Wallen Fee No. 2	Unit C, Section 28, T-20S, R-34E
30-025-27961	State "26" No. 1	Unit B, Section 26, T-12S, R-32E
30-025-28227	State "WES" No. 1	Unit A, Section 20, T-14S, R-33E
30-025-29664	Speight No. 1	Unit A, Section 15, T-13S, R-38E
30-025-29935	Speight No. 2	Unit H, Section 15, T-13S, R-38E

(2) Prior to plugging and abandoning the above-described wells, Kelly H. Baxter shall obtain from the supervisor of the Division's Hobbs District Office an approved plugging program and shall notify the supervisor of the Division's Hobbs District Office of the date and time this work is to commence whereupon the Division may witness such work.

(3) Should Kelly H. Baxter fail or refuse to carry out such provisions in accordance with the terms of this order, the Division shall then take such actions as are necessary to: (i) plug and abandon these wells; (ii) declare forfeiture of the bond furnished by Kelly H. Baxter to the extent necessary to fully reimburse the Division for its expenses incurred in accomplishing the foregoing; and (iii) take necessary and appropriate measures to recover from Kelly H. Baxter any costs of plugging the subject wells in excess of the amount of the bond.

(4) Failure to comply with the provisions of this order shall subject Kelly H.

Baxter to a fine of $1,000.00 per day per well until such work is completed (see Section 70-2-31, NMSA 1978).

(5) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

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

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

LOI WROTENBERY
Director

S E A L

12792 Kelly H. Baxter
Bill Carr, Kelly H. Baxter

Plugging case

Jane Prouty – no production on wells listed on Ex. 1

no production since 1998
two L-115s in 1997

Dorothy Phillips –
Sole plugging bond for KHB

Billy Pritchard – Kelly H. Baxter operates these wells:
State FP Well No. 3 –
Wallen Fee No. 1 – PA'd [dates?>
Wallen Fee No. 2 – PA'd <dates?>
State WES No. 1 –
Speight No. 1 –
Speight SWD No. 2 –
State 26 No. 1 – PA'd <dates?>

made several attempts to get KHB to plug wells – unresponsive

since 1st hearing – has plugged some wells,

plugging procedures will adequately protect
prepared by Bill Pritchard (ex. 25)

=

Mayo Marsh & Casing + Tubing
Basic Energy Services – Odessa

wells could be TA'ed or brought back to production —

Brooks recomends specific date + penalty if he does not do so —
+ assess penalty for past conduct
suspended penalty if completed w/in prescribed period

Carr Division said Sept. 2002 to complete work
March - Mayo Mavrs to do work contracted
~~Mavrs~~ Basic Energy Services

No work done by Mavrs

3 wells plugged by Fleet Cementing —

Speight 1+2 wants to return to production but now has lost leases —

4 more need to be plugged

contacted Mavrs w/ Basic - neither are willing to do work

☆ Fleet can't pull casing - offset cost of plugging

~~OXY~~ intends to perform
needs time —

try + get one co. to plug well

no penalties if complies
it can't meet time - submit agreement
at the deposit -

=

Billy Pritchard (recalled)
quite a few plastics cos. (6-8)
(Midland/Odessa area)