

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 THE:

CASE NO. 14380
ORDER NO. R-13190

AMENDED APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR A COMPLIANCE ORDER UNDER NMSA 1978, SECTION 70-2-14(B) AGAINST PLATINUM EXPLORATION INC. AND/OR DEVONIAN PARTNERS, LLC, FINDING THAT THE OPERATOR IS IN VIOLATION OF 19.15.25 NMAC OR 19.15.7.24 NMAC, 19.15.8.9 NMAC, 19.15.29.11 NMAC, 19.15.16.8 NMAC AND 19.15.9.8-9 NMAC, REQUIRING OPERATOR TO RETURN ITS WELLS TO COMPLIANCE OR PROPERLY PLUG AND ABANDON ALL ITS WELLS BY A DATE CERTAIN, AND IN THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION TO PLUG AND ABANDON THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL ASSURANCE, LEA COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on October 15, 2009, at Santa Fe, New Mexico, before Examiner Terry Warnell.

NOW, on this 12th day of November, 2009, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

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

(2) The Division seeks an order determining the operator or operators responsible for certain wells; finding the responsible operator(s) in violation of 19.15.25 NMAC or 19.15.7.24 NMAC, 19.15.8.9 NMAC, 19.15.29.11 NMAC, 19.15.16.8 NMAC and/or 19.15.9.8-9 NMAC; requiring the responsible operator(s) to return the wells to compliance or plug the wells by a date certain, pursuant to NMSA 1978, Section 70-2-14(B); and authorizing the Division to plug and abandon all the wells and forfeit the

applicable financial assurances if the responsible operator or operators fail to meet that deadline.

(3) The Division named Platinum Exploration, Inc. and Devonian Partners LLC as respondents in this action.

(4) Neither Platinum Exploration, Inc. nor Devonian Partners LLC entered an appearance in this action.

(5) The Division appeared at the hearing through legal counsel and presented the following testimony.

(6) Division records identify Platinum Exploration, Inc. (Platinum) as the operator of record of the following wells under OGRID 227103:

Barnhill #001, L-1-14S-37E, 30-025-28198
Cooper #001, 3-2-17S-38E, 30-025-28166
Gulf State #003, 3-4-16S-38E, 30-025-07270
O A Woody #001, E-35-16S-38E, 30-025-26361
Post #001, N-1-14S-37E, 30-025-27984
Post #002, M-1-14S-37E, 30-025-28295
Post #3, D-12-14S-37E, 30-025-28576
Rose Eaves #002, P-35-16S-38E, 30-025-07291
Smith #001, F-13-14S-37E, 30-025-28478
Warren State #001, P-35-15S-37E, 30-025-34034

(7) Devonian Partners, LLC (Devonian) is not registered as an operator in New Mexico.

(8) Subsection O of 19.15.2.7 NMAC defines "operator" as "a person who, duly authorized, is in charge of a lease's development or a producing property's operation, and who is in charge of a facility's operation or management."

(9) In correspondence from Devonian to the surface owner, Devonian represented that it had succeeded Platinum in its interests related to the Barnhill #1, Post #1, Post #2 and Post #3 wells, and had succeeded Platinum in its obligations under the surface lease as to those wells. The correspondence indicated that Devonian was working with the surface owner directly, and not through a contract operator.

(10) The Division presented evidence on the following violations:

a. **Rule 19.15.25.8 NMAC** requires an operator to plug and abandon or temporarily abandon a well in accordance with Division rules within 90 days after a period of one year of continuous inactivity. Only one of the wells, the Post #1, is on approved temporary abandonment status. The remaining wells have been inactive for a continuous period in excess of one year plus ninety days and are neither plugged and abandoned nor on approved temporary abandonment status.

b. **Rule 19.15.8.9 NMAC** requires operators to post a single-well financial assurance for each state or fee well that has been inactive for a period of more than two years. All ten of the wells are state or fee wells that have been inactive for more than two years; therefore they all require single well financial assurances under 19.15.8.9 NMAC. None of the wells is covered by a single-well financial assurance. Platinum has posted a \$50,000 letter of credit.

c. **Rule 19.15.29.11 NMAC** requires the responsible person to complete division-approved corrective action for releases that endanger public health or the environment. The Division conducted inspections of the Post lease on June 24, 2009 and July 27, 2009. During both inspections, the Division found releases, including oil leaking from the wellhead of the Post #003. The Division sent two letters to Platinum notifying it of the leak and requiring Platinum to take corrective action. The site has not been remediated.

d. **Rule 19.15.16.8 NMAC** requires operators to identify wells and related facilities by signs. The operator has not posted well signs identifying it as the operator of at least three of its wells: the Barnhill #001, the Post #002, and the Post #003.

e. **19.15.9.8-9 NMAC** requires an operator of wells in New Mexico to register with the Division as an operator prior to commencing operations. The operator must post financial assurances and provide a current address of record and emergency contact information. When the entity responsible for a well or group of wells changes, the operator of record with the Division and the new operator shall file a change of operator application, and "the new operator shall not commence operations until the division approves the application for change of operator." 19.15.9.9 NMAC. The evidence indicates that Devonian has been operating the Barnhill #1, Post #1, Post #2 and Post #3 wells without registering as an operator in New Mexico and without becoming the operator of record for the wells.

11. NMSA 1978, Section 70-2-14(B) provides, in relevant part, "If any of the requirements of the Oil and Gas Act [70-2-1 NMSA 1978] or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the operator or surety or both in accordance with division rules."

The Division determined the following:

12. Platinum is the operator of record for all ten wells, and responsible for the compliance of those wells.

13. Devonian is the operator in fact of the Barnhill #1, Post #1, Post #2 and Post #3 wells, and is jointly responsible with Platinum for the compliance of those wells.

14. Platinum is in violation of the following rules: 19.15.25 NMAC (the inactive well rule) as to all wells except the Post #1; 19.15.8.9 NMAC (the financial assurance rule) as to all wells; 19.15.29.11 NMAC (the corrective action for release rule) as to the Post #3; and 19.15.16.8 NMAC (the well sign rule) as to the Barnhill #1, the Post #2 and the Post #3.

15. Devonian is in violation of the following rules: 19.15.25 NMAC (the inactive well rule) and 19.15.16.9 NMAC (the well sign rule) as to the Barnhill #1, the Post #2 and the Post #3; 19.15.8.9 NMAC (the financial assurance rule) as to the Barnhill #1, the Post #1, the Post #2, and the Post #3; and 19.15.29.11 NMAC (the corrective action for release rule) as to the Post #3. Devonian is also in violation of 19.15.9.8 and 19.15.9.9 NMAC based on its operation of the wells without registering as an operator and becoming the operator of record for the wells.

IT IS THEREFORE ORDERED THAT:

(1) Platinum Exploration Inc., (OGRID 227103) shall return the following wells to compliance with 19.15.25 NMAC (the inactive well rule) and 19.15.8.9 NMAC (the financial assurance rule) or plug and abandon the wells by May 1, 2010:

Cooper #001, 30-025-28166
Gulf State #003, 30-025-07270
O A Woody #001, 30-025-26361
Rose Eaves #002, 30-025-07291
Smith #001, 30-025-28478
Warren State #001, 30-025-34034

(2) Platinum Exploration Inc. (OGRID 227103) and Devonian Partners, LLC shall return the following wells to compliance with the indicated rules or plug and abandon the wells by May 1, 2010:

a. 19.15.25 NMAC (the inactive well rule) and 19.15.16.9 (the well sign rule): Barnhill #001, 30-025-28198, Post #002, 30-025-28295, Post #003, 30-025-28576

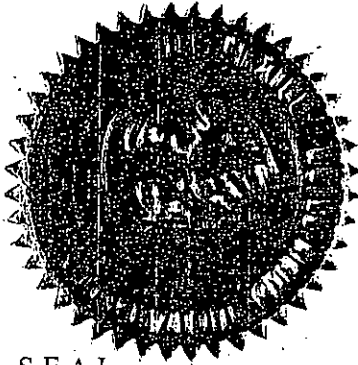
b. 19.15.8.9 NMAC (the financial assurance rule): Barnhill #001, 30-025-28198, Post #001, 30-025-27984, Post #002, 30-025-28295, Post #003, 30-025-28576

c. 19.15.29.11 NMAC (the corrective action for release rule): Post #003, 30-025-28576

(3) After May 1, 2010, the Division may plug and abandon any well that remains out of compliance with the indicated rules, remediate the well site and forfeit the applicable financial assurance.

- (4) Wells may be transferred to another operator, acceptable to the Division.
- (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 designated above.



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "Mark E. Fesmire".

MARK, E. FESMIRE, P.E.
Director

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John Bemis
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Jami Bailey
Division Director
Oil Conservation Division



August 28, 2012

West Texas State Bank
1501 W. University
Odessa, TX 79763

Re: Letter of Credit No. 06-2004
Issuer: West Texas State Bank
Beneficiary: Energy, Minerals and Natural Resources Department of
the State of New Mexico
Account Party: Platinum Exploration, Inc.

Ladies and Gentlemen:

The New Mexico Oil Conservation Division hereby presents the captioned letter of credit for payment in the sum of Fifty Thousand Dollars (\$ 50,000.00).

Pursuant to the terms of the letter of credit, we enclose herewith:

1. the original letter of credit;
2. sight draft in the form of Exhibit A to the letter of credit; and
3. Director's certificate in the form of Exhibit B to the letter of credit.

Please send payment by check or money order to the New Mexico Oil Conservation Division, at the address shown at the foot of this letter, directed to my attention.

If you have questions or other concerns, please feel free to contact the undersigned.

Sincerely,

A handwritten signature in cursive script that reads "David K. Brooks".

David K. Brooks
Assistant General Counsel
505-476-3450
david.brooks@state.nm.us

State of New Mexico
Energy, Minerals and Natural Resources Department
Oil Conservation Division

Irrevocable Letter of Credit
(5-Year - Automatically Renewable)

File with Oil Conservation Division, 1220 South St. Francis, Santa Fe, New Mexico 87505

LETTER OF CREDIT NO. 06-2004
Effective Date: April 6, 2006

West Texas State Bank, Odessa, Texas [Name of FINANCIAL INSTITUTION], a national or state chartered banking association, as ISSUER, hereby establishes this irrevocable Letter of Credit for the use and benefit of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department (or successor agency) of the State of New Mexico (the DIVISION), pursuant to NMSA 1978, Section 70-2-14, as amended, for an aggregate amount not to exceed Fifty Thousand Dollars and No/100-Dollars (\$ 50,000.) in United States dollars (Face Amount) effective on the date indicated above. This Letter of Credit is established for Platinum Exploration, Inc. [Name of Operator], whose address is 550 W. Texas Avenue, Suite 500, Midland, Texas 79701, as APPLICANT.

1. The APPLICANT has requested that this letter of credit be issued to the DIVISION as financial assurance for the APPLICANT pursuant to statutory and regulatory requirements of the State of New Mexico set forth in Section 70-2-14 NMSA, as amended, and in Rule 101 [19.15.3.101 NMAC].

2. This Letter of Credit is irrevocable for the term hereof, and is furnished as financial assurance for the compliance by the APPLICANT with all applicable statutes of the State of New Mexico and with all rules and orders of the Oil Conservation Commission and DIVISION, including requirements to cause wells in the State of New Mexico now or hereafter owned or operated by Applicant to be properly plugged and abandoned, if dry, or when no longer productive or useful for a beneficial purpose, in accordance with the rules and orders of the Division, including but not limited to Rule 101 [19.15.3.101 NMAC] and Rule 202 [19.15.4.202 NMAC], as the same now exist or may be hereafter amended.

3. This Letter of Credit will expire on April 6, 2011 [not less than five (5) years from the effective date of the Letter of Credit]; unless sooner released by written notice to the ISSUER by the DIVISION. Upon the expiration date, this Letter of Credit shall be automatically renewed for an additional term of five years commencing on such expiration date, and likewise for successive terms of five years each upon the occurrence of each subsequent scheduled expiration date, unless the ISSUER has, at least thirty days prior to any scheduled expiration date, mailed written notice of non-renewal, by certified mail, return receipt requested, to the DIVISION. This Letter of Credit may be forfeited and collected by the DIVISION if not replaced by approved financial assurance at least 30 days before the expiration date hereof.

4. Funds under this Letter of Credit are available against the DIVISION's sight draft, in the form of Exhibit A, specifying Letter of Credit No. 06-2004, delivered to the office of the ISSUER at 1501 W. University, Odessa, Texas 79763 [address], accompanied by a certificate in the form of Exhibit B, signed by the Director of the DIVISION or the Director's duly authorized representative. At the Division's sole election, the DIVISION may present sight drafts for less than the Face Amount at any time and from time to time so long as this letter of credit remains in force, provided that the aggregate amount of all such drafts shall not exceed the Face Amount.

5. If the ISSUER receives the DIVISION's sight draft(s) and certificate(s) as provided in Paragraph 4, above, on or before the expiration or termination of this Letter of Credit, the ISSUER shall make such amount as the DIVISION may specify, up to an aggregate amount not to exceed the Face Amount of this Letter of Credit, available to the DIVISION no later than 5 p.m. in Santa Fe, NM on the second business day following the ISSUER's receipt of the sight draft and certificate, and in such a manner as the DIVISION may specify.

6. The ISSUER shall give prompt notice to the APPLICANT and to the DIVISION of any notice received or action filed alleging the insolvency or bankruptcy of the ISSUER, or alleging any violations of regulatory requirements that could result in suspension or revocation of the ISSUER's charter or license to do business.

7. This Letter of Credit shall be governed by the laws of the State of New Mexico, and, to the extent not inconsistent with such laws, by International Chamber of Commerce Publication No. 500, entitled "Uniform Customs and Practice for Documentary Credits" (most recent revision).

8. All communications regarding this Letter of Credit shall be addressed to the ISSUER

at P.O. Box 7409, Odessa, Tx [address], referencing Letter of Credit No. 06-2004
79760

Very truly yours,

West Texas State Bank, Odessa, Texas
ISSUER

West Texas State Bank, Odessa, Texas
By Julie Faulkner, Sr. Vice President
(Name, typed or printed)

Julie Faulkner, SVP.
(Authorized Signature)

Title Sr. Vice President

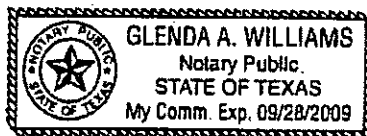
Effective Date April 6, 20 06

State of Texas)
SS.
County of Ector)

This instrument was acknowledged before me on this 4th day of April,
20 06 by Julie Faulkner, Sr. Vice President (Title)
of West Texas State Bank, Odessa (ISSUER).

My Commission Expires:

9/28/09



Glenda A. Williams
Notary Public

NOTICE: The attached exhibits must be initialed by the party signing this letter of credit for the Financial Institution. If this letter of credit is executed by an officer other than the President, a Vice President, or a branch manager, it must be accompanied by a certified resolution of the Board of Directors of the Financial Institution, certifying to the authority of the signing officer to execute letters of credit in at least the Face Amount.

EXHIBIT A - SIGHT DRAFT
to
Letter of Credit No. 06-2004

8/28/2012

Date

PAY TO THE ORDER OF **NEW MEXICO OIL CONSERVATION DIVISION**

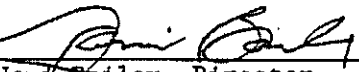
(\$ 50,000 .) Fifty Thousand DOLLARS

TO: (Name of ISSUER)
and
(Address - Must be physical address)

West Texas State Bank
Attn: Julie Faulkner
P.O. Box 7409
Odessa, Texas 79760

Physical Address:
1501 W. University
Odessa, Texas 79763

New Mexico Energy Minerals and
Natural Resources Department
Oil Conservation Division
1220 South St. Francis
Santa Fe, New Mexico 87505

By: 
Jamil Bailey, Director
Date 8/28/2012

Initials of Representative of
Financial Institution

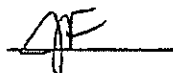


EXHIBIT B

to

Letter of Credit No. 06-2004

I, Jami Bailey, a duly authorized representative of the New Mexico Oil Conservation Division, hereby certify that: (1) the drawing in the amount of Fifty Thousand Dollars (\$50,000), by sight draft accompanying this certificate, under Letter of Credit No. 06-2004 dated _____ issued by you, is duly authorized in accordance with the New Mexico Oil and Gas Act (NMSA 1978, Sections 70-2-1 through 70-2-38, as amended) and applicable rules of the New Mexico Oil Conservation Division; (2) the amount of the sight draft, together with any amounts previously drawn under the Letter of Credit, does not exceed the Face Amount of the Letter of Credit; and (3) the New Mexico Oil Conservation Division has directed the forfeiture of the Letter of Credit.

New Mexico Oil Conservation Division

By 
Jami Bailey, Director

Date 8/28/2012

**Initials of Representative of
Financial Institution**





RECEIVED OCD

2012 SEP -4 P 12: 44

August 29, 2012

Certified Mail Receipt

No. 91 7199 9991 7031 5325 6651

New Mexico Oil Conservation Division
Attn: David K. Brooks, Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Platinum Exploration, Inc./Letter of Credit No. 06-2004

Dear Mr. Brooks:

Per your instructions, enclosed herewith is a Bank Money Order in the amount of \$50,000.00 for the above referenced.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sophia Gomez".

Sophia Gomez
Asst. Vice President

encl.

/sg