

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION  
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7 **AMENDED APPLICATION OF THE NEW MEXICO OIL CONSERVATION**  
8 **DIVISION, THROUGH THE ENFORCEMENT AND COMPLIANCE MANAGER, FOR**  
9 **A COMPLIANCE ORDER UNDER NMSA 1978, SECTION 70-2-14(B) AGAINST**  
10 **PLATINUM EXPLORATION INC. AND/OR DEVONIAN PARTNERS, LLC, FINDING**  
11 **THAT THE OPERATOR IS IN VIOLATION OF 19.15.25 NMAC OR 19.15.7.24 NMAC,**  
12 **19.15.8.9 NMAC, 19.15.29.11 NMAC, 19.15.16.8 NMAC AND 19.15.9.8-9 NMAC,**  
13 **REQUIRING OPERATOR TO RETURN ITS WELLS TO COMPLIANCE OR**  
14 **PROPERLY PLUG AND ABANDON ALL ITS WELLS BY A DATE CERTAIN, AND IN**  
15 **THE EVENT OF NON-COMPLIANCE AUTHORIZING THE DIVISION TO PLUG**  
16 **AND ABANDON THE WELLS AND FORFEIT THE APPLICABLE FINANCIAL**  
17 **ASSURANCE, LEA COUNTY, NEW MEXICO.**

18  
19 CASE NO. 14380  
20

21  
22 **TESTIMONY OF DANIEL SANCHEZ**  
23  
24

25 My name is Daniel Sanchez.

26 Since November 22, 2004, I have been the Compliance and Enforcement Manager of the  
27 Oil Conservation Division (OCD) of the Energy, Minerals and Natural Resources Department.

28 My duties as Compliance and Enforcement Manager include supervising the four district  
29 offices of the OCD and the Environmental Bureau of the OCD, and overseeing the enforcement  
30 and compliance actions of the OCD.

31 I have researched the compliance history of the wells at issue in Case No. 14380.

32 **Summary**

33 In this case, the OCD is asking for an order under NMSA 1978, Section 70-2-14(B)  
34 requiring the operator to return the following wells to compliance or plug them by a date certain,  
35 and authorizing the OCD to plug the wells if the operator fails to meet that deadline:

36 Barnhill #001, L-1-14S-37E, 30-025-28198  
37 Cooper #001, 3-2-17S-38E, 30-025-28166  
38 Gulf State #003, 3-4-16S-38E, 30-025-07270  
39 O A Woody #001, 3-4-16S-38E, 30-025-26361  
40 Post #001, N-1-14S-37E, 30-025-27984  
41 Post #002, M-1-14S-37E, 30-025-28295  
42 Post #003, D-12-14S-37E, 30-025-28576  
43 Rose Eaves #002, P-35-16S-38E, 30-025-07291  
44 Smith #001, F-13-14S-37E, 30-025-28478  
45 Warren State #001, P-35-15S-37E, 30-025-34034  
46

47 NMSA 1978, Section 70-2-14(B) provides that if any rule issued pursuant to the Oil and  
48 Gas Act is violated, the OCD “may order any well plugged and abandoned.” To justify a  
49 plugging order under 70-2-14(B) NMAC, the OCD will show the following violations:

- 50 • Nine of the ten wells are either in violation of the inactive well rule, 19.15.25  
51 NMAC, or are not reporting production or injection as required by 19.15.7.24  
52 NMAC.
- 53 • All ten wells are in violation of the financial assurance requirements of 19.15.8.9  
54 NMAC.
- 55 • The operator has failed to complete OCD-approved corrective action for releases  
56 on the wells located on the Post lease, in violation of 19.15.29.11 NMAC.
- 57 • The operator is in violation of the well sign requirements of 19.15.16.8 NMAC as  
58 to four wells.

59  
60 The OCD originally filed this application against Platinum Exploration, Inc. (Platinum).  
61 Platinum is the operator of record of the ten wells at issue. However, the surface owner for the  
62 Barnhill and Post wells informed the OCD that it has been dealing with another entity –  
63 Devonian Partners, LLC (Devonian) – regarding the releases, and has provided the OCD with  
64 documents from Devonian indicating that Devonian is managing those wells. The OCD  
65 therefore amended the application to bring the case against Platinum as operator of record of all  
66 ten wells, and Devonian as operator in fact of the Barnhill well and the three Post wells. If  
67 Devonian is in fact operating wells without becoming the operator of record for those wells, it is  
68 also in violation of 19.15.9.8 NMAC and 19.15.9.9 B NMAC, and those violations provide an

69 • additional ground for issuance of a plugging order under NMSA 1978, Section 70-2-14(B) as to  
70 those wells.

71 **Violation of 19.15.25 NMAC (inactive well requirements):**

72  
73 Rule 19.15.25.8 NMAC requires an operator to plug and abandon or temporarily abandon  
74 a well in accordance with OCD rules within 90 days after a period of one year of continuous  
75 inactivity.

76 **OCD Exhibit 2** is a printout of the Well List for Platinum taken from the OCD's website.  
77 The Well List contains all wells that have not been plugged and released, and compiles  
78 information about the wells from the regulatory filings of the operators. OCD personnel  
79 routinely rely on the Well List in conducting their normal business operations, and the Well List  
80 is also routinely used and relied upon by operators and members of the public. A search of the  
81 Well List for wells operated by "Platinum Exploration, Inc." shows that Platinum is the operator  
82 of record of the ten wells under OGRID 227103.

83 One of the ten wells, the Post #1, is on approved temporary abandonment status until  
84 2010, and is therefore in compliance with the inactive well rule. However, the other nine wells  
85 are in violation of the inactive well rule because they have been inactive for a continuous period  
86 in excess of one year plus 90 days, and are neither plugged and abandoned in accord with  
87 19.15.25.10 NMAC nor on approved temporary abandonment status in accord with 19.15.25.13  
88 NMAC.

89 The following pertains to the nine wells that are out of compliance:

90 Four of Platinum's wells have reported production or injection at some point in time, but  
91 have not reported production or injection for a continuous period exceeding one year plus 90

92 days. **OCD Exhibit 2** shows the last period for which production or injection was reported for  
93 each well:

94 Barnhill #001: last production reported for 11/2006  
95 Post #002; last production reported for 7/2006  
96 Post #003; last production reported for 8/2005  
97 Warren State #001; last production reported for 11/2006  
98

99 The remaining four Platinum wells have never reported production or injection. These  
100 wells were plugged wells or dry holes re-entered by Platinum. I have researched the well files  
101 for these wells to find the most recent dates of re-entry. **OCD Exhibits 3 through 7** are the  
102 documents from the well files showing the dates of re-entry:

103 Cooper #001: re-entered well 5/8/2006 (**OCD Exhibit 3**)  
104 Gulf State #003: re-entered well 4/16/05 (**OCD Exhibit 4**)  
105 O A Woody #001: re-entered 9/26/06 (**OCD Exhibit 5**)  
106 Rose Eaves #002; re-entered 9/8/05 (**OCD Exhibit 6**)  
107 Smith #001; re-entered 2/24/05 (**OCD Exhibit 7**)  
108

109 These four wells are also in violation of the inactive well rule because they have been  
110 inactive since the re-entries for a continuous period exceeding one year plus ninety days.

111 **Violation of 19.15.7.24 NMAC (production report filing requirements):**  
112

113 In other compliance cases involving the inactive well rule, operators have claimed that  
114 their wells were actually producing or injecting, they just weren't reporting that production or  
115 injection on their monthly C-115s, as required by 19.15.7.24 NMAC. Consequently, the OCD  
116 now routinely pleads its cases in the alternative: either the operator is in violation of the inactive  
117 well rule, or the operator is in violation of the production report filing rule. That itself would be  
118 a violation supporting an order under NMSA 1978, Section 70-2-14(B).

119 **Violation of 19.15.8.9 NMAC (financial assurance requirements):**

120 Rule 19.15.8.9 NMAC requires operators to post financial assurances for wells on  
121 privately owned or state owned lands in New Mexico that have not been plugged and released,

122 conditioned that the well will be plugged and abandoned and the location restored and  
123 remediated in compliance with OCD rules.

124 Effective January 1, 2008, the operator of a state or fee well that has been inactive for a  
125 period of more than two years must post a one-well financial assurance for the well, even if the  
126 well is also covered by a blanket financial assurance. See Rule 19.15.8.9.C NMAC.

127 As shown on **OCD Exhibit 2**, the well list, all of Platinum's wells are state or fee wells.  
128 All of Platinum's wells, including the Post #1 well that is on approved temporary abandonment  
129 status, have been inactive for more than two years. All therefore require single well financial  
130 assurances. Platinum has not posted any single well financial assurances.

131 **Violation of 19.15.29.11 NMAC (corrective action for releases):**

132 Rule 19.15.29.11 NMAC requires that the responsible person complete division-approved  
133 corrective action for releases that endanger public health or the environment.

134 OCD inspector Maxey Brown conducted multiple inspections of the Post lease in 2009.  
135 **OCD Exhibits 8-10** are copies of the well inspection history for the three Post wells. The well  
136 inspection histories are written by the inspectors at the time they conduct the inspections or  
137 shortly after the inspection. The well inspection histories show that Mr. Brown found releases in  
138 2009 and notified Platinum of the releases.

139 **OCD Exhibits 11-14** are copies of letters of violation sent to Platinum on June 24, 2009  
140 and July 28, 2009 requesting that Platinum regarding the releases and requiring corrective action.

141 **OCD Exhibit 15** is a collection of photos taken by Mr. Brown during his inspection of  
142 the Post wellsite on July 27, 2009. **OCD Exhibit 16** is a collection of the photos of the same site  
143 taken by Mr. Brown during his inspection on August 10, 2009. **OCD Exhibit 17** is an aerial

144 photograph of the site, showing the locations of the Barnhill and Post wells and related tank  
145 battery, and their relation to crop land.

146 **Violation of 19.15.16.8 NMAC (well sign requirements)**

147 Rule 19.15.16.8 NMAC requires operators to identify wells and related facilities by signs,  
148 and sets out the requirements for those signs.

149 Platinum has not posted accurate well signs for at least four of its wells: the Barnhill well  
150 and the three Post wells. **OCD Exhibits 11-14**, the letters of violation sent to Platinum by Mr.  
151 Brown, alerted Platinum to the well sign violations.

152 **Identifying the Operator or Operators:**

153 As shown on **OCD Exhibit 2**, the well list, Platinum Exploration, Inc. is the operator of  
154 record for the ten wells. The OCD filed the original application in this case against Platinum  
155 Exploration, Inc. The OCD takes the position that the operator of record remains responsible for  
156 the wells until the OCD approves the transfer of the wells to a new operator. Even after the wells  
157 are transferred, the operator of record remains responsible for acts or omissions that occurred  
158 while he was operator of record.

159 The OCD received a written complaint from a surface owner, Guy Williams, dated  
160 August 11, 2009 regarding the need for environmental cleanup at the Barnhill and Post wells.  
161 **OCD Exhibit 18** is a copy of that letter. Mr. Williams identified the operator as “Devonian  
162 Partners, LLC.” Devonian is not registered as an operator of wells in New Mexico. Mr.  
163 Williams provided correspondence between the surface owners and Devonian. **OCD Exhibits**  
164 **19 -22** are copies of those letters and e-mails. The correspondence includes an e-mail from  
165 landman Turk McDonald to Lee Roberson dated January 16, 2008, regarding what needs to be  
166 done “to get those leases Legally back up and running.” **OCD Exhibit 19**. By e-mail dated

167 January 22, 2009 Mr. Roberson responds that the surface use agreement calls for an annual  
168 payment of \$7,500, and that if Platinum has assigned the lease to Devonian, then Devonian needs  
169 to advise him of that in writing. Mr. Roberson goes on to identify environmental issues at the  
170 Barnhill #1 and the Post #1, and asks Devonian to clean up the sites and reimburse him for cows  
171 that died due to ingestion of the oil. **OCD Exhibit 20.** By letter dated January 26, 2009, Brian  
172 Mahoney, who identifies himself as the managing director of Devonian, informs Mr. Roberson  
173 that Devonian has “succeeded Platinum Exploration, Inc. (“Platinum”) in their interests related to  
174 the Barnhill #1, Post #1, Post #2 and Post #3 wellbores and has succeeded Platinum in its  
175 obligations under the Surface and Salt Water Disposal Lease Dated August 1, 2005 (the “Lease”)  
176 ....” The letter refers to a payment of \$7,500 to the surface owners, and a payment for \$1,500  
177 for “the unfortunate incident with your cows and remediation of oil leakage on the surface.” The  
178 letter also states that “remediation work for the surface is being arranged and will be remedied as  
179 soon as equipment is available to work the site.” **OCD Exhibit 21.** By letter dated June 25,  
180 2009, Mr. Roberson informs Devonian that Genesis Farms, LLC has succeeded him in his  
181 interests related to the Barnhill #1, Post #1, Post #2 and Post #3 wells, surface and salt water  
182 disposal lease, and identifies Todd Roberson and Guy Williams as members of Genesis Farms  
183 LLC. **OCD Exhibit 22.**

184 Because it appears that Devonian now holds the mineral lease for the Barnhill #1, Post  
185 #1, Post #2, and Post #3 wells, and the salt water disposal lease for the Post #1 well, and because  
186 it appears that Devonian is actively working the lease itself and not through a registered operator,  
187 the OCD amended its application in this case to add Devonian as an operator in fact of the  
188 Barnhill and Post wells.

189           OCD rules define an “operator” as “a person who, duly authorized is in charge of a  
190 lease’s development or a producing property’s operation, or who is in charge of a facility’s  
191 operation or management.” 19.15.2.7.O(5) NMAC. OCD rules require an operator to register  
192 with the division prior to commencing operations. 19.15.9.8 NMAC. And if the operator is  
193 acquiring wells from another operator, the new operator may not commence operations until the  
194 division approves the application for a change of operator. 19.15.9.9 B NMAC.

195           The OCD asks for an order that recognizes that Devonian is the operator in fact of the  
196 Barnhill #1, Post #1, Post #2 and Post #3 wells, and holds Devonian jointly responsible with  
197 Platinum for returning those wells to compliance. In addition, the OCD asks that the order find  
198 that Devonian is in violation of 19.15.9.8 NMAC and 19.15.9.9 B NMAC for operating those  
199 wells without properly becoming operator of record for the wells.

200           To date, Devonian has not applied to become operator of record for the wells. No other  
201 prospective operator has applied to become operator of record for any of the Platinum wells.

202           **Requested Relief:**

203           The OCD requests an order:

- 204           • Finding Platinum to be the operator of record for all ten wells, and responsible for  
205 bringing those wells into compliance;
- 206           • Finding Devonian to be the operator in fact of the Barnhill #1, Post #1, Post #2 and Post  
207 #3 wells, and holding Devonian jointly responsible with Platinum for bringing those  
208 wells into compliance;
- 209           • Finding Platinum and Devonian to be in violation of one or more OCD rules, and  
210 requiring the applicable operator(s) to return the wells to compliance or plug them by a  
211 date certain, pursuant to NMSA 1978, Section 70-2-14(B); and
- 212           • Authorizing the OCD to plug the wells and forfeit any applicable financial assurance if  
213 Platinum and Devonian fail to meet the deadline set in the order.  
214

215           The OCD asks for an expedited order. If an order is issued as requested, the OCD will be  
216 able to require any new operator to enter into an agreed compliance order setting a schedule for

217 compliance with the existing order. 19.15.9.9.C(2) NMAC. In such cases, the OCD usually  
218 requires the new operator to post financial assurances in the form of cash bonds or letters of  
219 credit, and agree that the OCD may plug the wells and forfeit the financial assurances without  
220 hearing if the new operator fails to return the wells to compliance by the agreed deadline. This  
221 prevents the OCD from having to go to hearing again on the same wells and issues.

222 I, Daniel Sanchez, swear that the foregoing is true and correct.

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Daniel Sanchez  
Compliance and Enforcement Manager  
Oil Conservation Division

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233 Subscribed and sworn to before me this 14<sup>th</sup> day of October 2009 by Daniel Sanchez.

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\_\_\_\_\_  
Notary Public

241 My commission expires:

242 1-09-2012  
243  
244