

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

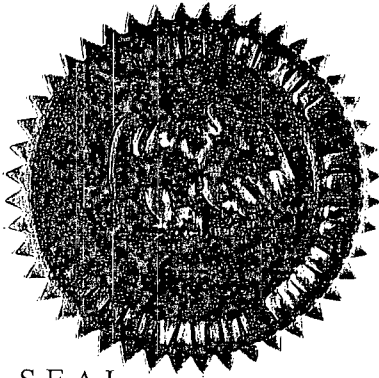
c. 19.15.29.11 NMAC (the corrective action for release rule): Post #003, 30-025-28576

(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 dark ink, appearing to read "Mark E. Fesmire".

MARK, E. FESMIRE, P.E.
Director