

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**CASE NO. 13532
ORDER NO. R-12433**

**APPLICATION OF J.W. NEAL, PATRICIA NEAL AND THE CLAUDIA
YOUNG TRUST TO RESCIND DIVISION ADMINISTRATIVE ORDER
NUMBER SWD-984, LEA COUNTY, NEW MEXICO.**

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on August 11, 2005, at Santa Fe, New Mexico, before Examiner William V. Jones.

NOW, on this 6th day of October, 2005, 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) J.W. Neal, Patricia Neal, and the Claudia Young Trust (collectively, "the Neals" or "the applicant") seek to cancel Division saltwater disposal permit SWD-984 issued to Platinum Exploration, Inc. ("Platinum") for the Summers Well No. 1. The Neals are the owners of leased and unleased mineral estates within the ½ mile area of review of this permit. The applicant asserts the following:

(a) J.W. Neal and Patricia Neal did not receive notice of Platinum's application prior to Division approval.

(b) The Summers No. 1 and its equipment were abandoned and are therefore owned by the Neals and are valuable property for attracting future lessees.

(c) The injection of salt water may interfere with future mineral production and constitutes underground trespass.

(3) Platinum's permit application was filed administratively with the Division on May 18, 2005 as saltwater disposal well application number *PSEM0513852040*. The permit was reviewed to ensure all requirements were met and then placed into suspense for the required 15 days. No protests were received by the Division within the 15 day wait period or prior to approval. On June 10, 2005, the application was approved and the permit issued. This permit allows Platinum to utilize the Summers Well No. 1 (API No. 30-025-32254) located 660 feet from the North line and 1,980 feet from the East line, Section 18, Township 17 South, Range 39 East, NMPM, Lea County, New Mexico, for injection of Devonian produced water for disposal purposes into the Devonian formation through an open hole completion from approximately 12,300 feet to 13,000 feet.

(4) Division Rule 701 is the pertinent rule for permitting saltwater disposal wells and contains specific notice requirements, listed below:

19.15.9.701 INJECTION OF FLUIDS INTO RESERVOIRS:

B. Method of Making Application

(2) *The Applicant shall furnish, by certified or registered mail, a copy of the application to the owner of the surface of the land on which each injection or disposal well is to be located and to each leasehold operator within one-half mile of the well.*

C. Administrative Approval

(1) *If the application is for administrative approval rather than for a hearing, it must also be accompanied by a copy of a legal publication published by the applicant in a newspaper of general circulation in the county in which the proposed injection well is located. (The details required in such legal notice are listed on Side 2 of Form C-108).*

(5) The practice of the Division is to require notice of injection well permit applications to all affected parties by certified mail. In general this consists of notice to the following parties within tracts partially or wholly contained within a ½ mile radius of any proposed injection well:

- (a) Division designated operators;
- (b) lessees of tracts with no Division designated operator;
- (c) all mineral interest owners in unleased tracts; and
- (d) the surface owner of the well site and injection facilities.

(6) The Neals are the owners of the mineral estate underlying the NE/4 and the N/2 SE/4 of Section 18. In January of 2004, the Neals, all three individually, signed a two-year term, 120 acre lease, now controlled by Platinum, consisting of the W/2 NE/4 and NW/4 SE/4 of Section 18. Platinum represents that it also has a lease covering the NE/4 SE/4 of Section 18. The mineral estate consisting of the E/2 NE/4 of Section 18 is owned by the Neals, has not been leased, and remains open.

(7) There are three plugged wells, all originally drilled to the Devonian, on acreage consisting of the W/2 NE/4 and NW/4 SE/4 of Section 18:

(a) The Summers Well No. 1 (API No. 30-025-32254) located in the NW/4 NE/4 of Section 18, was drilled in October of 1993. Intermediate casing, sized at 9-5/8 inch in diameter, was run to 4,950 feet and cemented to the surface. After reaching the total depth of 12,238 feet and running logs, the well was declared "dry". Production casing was not installed, and the hole was plugged back to 10,305 feet with cement plugs and the well left inactive since August of 1994.

(b) The Summers Neal Well No. 1 (API No. 30-025-33893), located in the NW/4 SE/4 of Section 18, was drilled in March of 1997 to 12,160 feet deep, casing was installed to 12,145 feet, and the well was plugged in November of 1998.

(c) The Summers Neal Well No. 2 (API No. 30-025-33925), located in the SW/4 NE/4 of Section 18, was drilled in May of 1997 to 12,162 feet deep, casing was installed to 12,102 feet, and the well was plugged in October of 1998.

(8) The South Knowles-Devonian Pool (36480) contains seven producing wells. The Devonian formation top is located at 12,120 feet. Platinum stated in its application that the Devonian original oil-water contact, at the location of the Summers Well No. 1, is located at 12,246 feet.

(9) The undesignated East Knowles-Grayburg San Andres Pool (96673) and the undesignated Southeast Knowles-Wolfcamp Pool (36540) are each located within one mile of the Summers Well No. 1, but neither pool has active wells.

(10) Michael Comeau, Esq. appeared at the hearing for the Neals. J.W. Neal Esq. represented himself and the Neals at the hearing. Mr. Neal also presented testimony. Platinum was represented through counsel and presented testimony from an expert engineer. No other party entered an appearance in this case.

(11) The applicant presented testimony at the hearing as follows:

(a) There was only one certified mail notice to the three Neals and this was mailed to J.W. Neal in Hobbs, New Mexico at the address of record listed on the three leases. Mr. Neal was away from home when the mail arrived. At that time, Claudia Young picked up his mail. Claudia is the daughter of Patricia Neal and J.W. Neal who are divorced. The Claudia Young Trust is an owner and affected party. Patricia Neal lives in Ruidoso, New Mexico, and had no knowledge of these proceedings until two days prior to this hearing. Mr. Neal originally verbally consented by phone to the proposed injection well. After thinking more about it, he telephoned Platinum to object to the application and left a phone message, then filed a written objection to the Division. The objection letter to the Division arrived on the 21st of June 2005, which is after the permit had been issued.

(b) The Summers Neal Well No. 2 produced considerable oil on test but was promptly abandoned after mechanical trouble by the previous lessee who was in dire financial straits. That well should be re-entered and produced.

(c) Platinum, as the current leaseholder, is not entitled to inject off-lease salt water into a wellbore on the lease, unless the lease has oil or gas production. The future productive capacity of the Neal's lease, or the value to a future lessee, may be harmed by Platinum's injection into the Summers Well No. 1.

(12) Platinum presented testimony at the hearing as follows:

(a) The address on record for all three of the Neal leases is PO Box 278, Hobbs, New Mexico, 88241. Platinum sent a certified letter with notice of the application to inject to that address, mailed on May 16th, and Claudia Young signed as having received the notice on May 25th.

(b) Platinum plans to re-enter this "temporarily" abandoned well, drill it to 12,300 feet, run and cement 5-1/2 inch casing, and deepen the open hole in the Devonian to 13,000 feet. Injection is planned into the Devonian below the original oil-water contact. Platinum does not think injection at this depth will harm the upper Devonian oil reserves that may or may not exist in this area.

(c) Platinum has no production on the lease obtained from the Neals at this time. The Summers Neal Well No. 2 is possibly prospective for re-entry and completion as a Devonian producer since it may be high enough on structure. The Summers Neal Well No. 1 is considered to be too low on structure to be a good candidate for re-entry and production, but could possibly be used someday as an injection well.

(d) Elsewhere in this Pool, Platinum is drilling horizontal producers in the top of the Devonian. If shale barriers exist in the productive section, an additional lateral is sometimes drilled below that barrier. The oil-water contact does move upward as oil is produced, but all saltwater injection wells are designed to inject below the original oil-water contact into stratified higher porosity intervals located by drilling breaks and the mudlog.

(13) The Examiner finds that:

(a) The Division required that the Neals be provided notice because the Neals are unleased mineral owners in the tract consisting of the E/2 NE/4 of Section 18 and this tract is within the 1/2 mile radius of the Summers Well No. 1. This tract contains no wells, active or plugged.

(b) Only one notice for the administrative application was provided to the address provided by the Neals. Platinum provided notice to that address and it was received more than 15 days prior to the date the Division acted on the permit application. However, this notice only addressed J.W. Neal and did not address the Trust or Patricia Neal. Notices should have been sent by certified mail, addressing each of the three separate mineral interest owners. Notice of the administrative application was not sufficient.

(c) Notice of the hearing was provided to affected parties and published in the newspaper. J.W. Neal said that Patricia Neal had no knowledge of the administrative application or the hearing until a couple of days prior to the hearing. However, Patricia Neal is a party in this case and was represented at the hearing by J.W. Neal Esq.

(d) Platinum was not required by the Division to provide notice to the Neals for the tract consisting of the Summers Well No. 1, since this tract is leased to Platinum. The lease stipulations for that tract may or may not require production on the lease prior to injection. The Division does not interpret lease stipulations or determine if they have been complied with.

(e) The Summers Well No. 1 has been inactive since 1994 and has never produced from any formation. It is in violation of Division rules, which prohibit wells that are not plugged and abandoned from being inactive for an extended period. No depth or formation in the well is currently considered by the lessee, Platinum, to be prospective of oil and gas production, not the San Andres, Wolfcamp, or the Devonian. The only producing Pool in this area is the Devonian, and this well is reported to be too low on structure to produce.

(f) No production exists on this lease, this wellbore is un-usable for oil and gas production, and Platinum has permission from the surface owner to use this wellbore to inject water.

(g) Injection below the oil-water contact in the Summers Well No. 1 will not create waste or otherwise harm existing Devonian oil reserves in offset tracts.

(h) For reasons already stated, utilizing the Summers Well No. 1 to inject water should not harm the value of the lease consisting of the W/2 NE/4 of Section 18 and the NW/4 SE/4 of Section 18. In addition, this lease contains two other wellbores that Platinum or any other operator could use for injection and production. The Summers Neal Well No. 2 is possibly prospective for Devonian oil production. The Summers Neal Well No. 1 could possibly be re-entered and used to dispose of salt water.

(i) This application should be denied and administrative permit SWD-984 should remain in effect.

IT IS THEREFORE ORDERED THAT:

(1) The application of J.W. Neal, Patricia Neal, and the Claudia Young Trust, to cancel Division saltwater disposal permit SWD-984 for the Summers Well No. 1 (API No. 30-025-33893) is hereby denied.

(2) Jurisdiction is hereby 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.



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