

OIL & GAS DOCKET NO. 8A-0249476

ENFORCEMENT ACTION AGAINST PLATINUM EXPLORATION, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE T. L. GRIFFIN "6-A" (02665) LEASE, WELL NOS. 2A AND 6; THE T. L. GRIFFIN "6-B" (02666) LEASE, WELL NO. 4; AND THE T. L. GRIFFIN "6-C" (02667) LEASE, WELL NOS. 8 AND 12, HOBO (PENNSYLVANIAN) FIELD, BORDEN COUNTY, TEXAS

APPEARANCES:

FOR MOVANT:

Susan German

MOVANT:

Enforcement Section
Railroad Commission of Texas

FOR RESPONDENT:

Jason Turner
Robert McKenzie
Greg Rasmussen

RESPONDENT:

Platinum Exploration, Inc.

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

DATE COMPLAINT FILED:

November 9, 2006

DATE OF NOTICE OF HEARING:

January 29, 2007

DATE OF HEARING:

April 12, 2007

HEARD BY:

James M. Doherty, Hearings
Examiner

DATE PFD CIRCULATED:

May 11, 2007

STATEMENT OF THE CASE

This proceeding was called by the Commission on the recommendation of the District Office to determine the following:

1. Whether the respondent Platinum Exploration, Inc. (“Platinum”), should be required to plug or otherwise place into compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4; and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, Hobo (Pennsylvanian) Field, Borden County, Texas;
2. Whether Platinum violated Statewide Rule 3 [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.3] by failing to post required identification signs at the lease entrance and at the site of Well No. 2A on the T. L. Griffin “6-A” (02665) Lease, the site of Well No. 4 on the T. L. Griffin “6-B” (02666) Lease, and the lease entrance and the site of Well No. 8 on the T. L. Griffin “6-C” (02667) Lease;
3. Whether Platinum violated Statewide Rule 14(b)(3) by failing to perform required H-15 tests (Test on an Inactive Well More than 25 Years Old) on the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12;
4. Whether Platinum violated provisions of Title 3, Oil and Gas, Subtitles A, B, and C, Texas Natural Resources Code, Chapter 27 of the Texas Water Code, and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to plug the subject wells or otherwise place the wells into compliance with Statewide Rules 3, 14(b)(2), and 14(b)(3);
4. Whether, pursuant to Texas Natural Resources Code §81.0531, Platinum should be assessed administrative penalties of not more than \$10,000 per day for each offense committed regarding the subject wells; and
5. Whether any violations of Statewide Rules 3, 14(b)(2), and 14(b)(3) by Platinum should be referred to the Office of the Attorney General for further civil action pursuant to Texas Natural Resources Code §81.0534.

A hearing was held on April 12, 2007.¹ Susan German, Staff Attorney, appeared representing the Enforcement Section of the Office of General Counsel (“Enforcement”). Jason Turner, attorney, appeared representing Platinum and presented evidence. Enforcement’s certified hearing file was admitted into evidence.

¹ This docket was heard jointly with Oil & Gas Docket Nos. 02-0248250, 08-0248249, 08-0248259, and 8A-0249475, and involving the same respondent. Separate proposals for decision are being issued in each docket.

APPLICABLE LAW

Statewide Rule 3(1) requires that an identification sign be posted at the primary lease entrance showing the name of the property, name of the operator, and number of acres in the property. Statewide Rule 3(2) requires that an identification sign be posted at each well site, showing the name of the lease, name of the operator, and well number.

Statewide Rule 14(b)(2) requires that a well be plugged after 12 months of inactivity, unless a plugging extension has been obtained. A plugging extension will be approved for a well only if the well is in compliance with all Commission rules and the operator has a good faith claim of right to operate the well.

Statewide Rule 14(b)(3) provides that the operator of any well more than 25 years old that becomes inactive shall plug or test such well to determine whether the well poses a potential threat of harm to natural resources, including surface and subsurface water, oil and gas.

DISCUSSION OF THE EVIDENCE

Matters Officially Noticed

The examiner has officially noticed the Commission's Master Inquiry, Officer/Agent Inquiry Selection, and P-5 Financial Assurance Inquiry databases for Platinum, which show that Platinum is a corporation, and its officers are Harold James Rasmussen, President, Michael Paul Jobe, Vice President, and Gregory James Rasmussen, Vice President. The Form P-5 organization report of Platinum is active, and Platinum has approved financial assurance on file with the Commission in the amount of \$250,000.

The examiner has also officially noticed the Commission's On-Schedule Lease, Wells, Wellbores By Operator and Wells Subject to Rule 14(b)(2)-Operator Summary Data databases which show that as of April 26, 2007, Platinum was the record operator of 116 wells, 69 of which are subject to Statewide Rule 14(b)(2). Forty-seven of the 69 wells subject to Statewide Rule 14(b)(2) have been inactive for more than 36 months. Of the 69 wells subject to Statewide Rule 14(b)(2), plugging extensions have been approved for 43 wells and denied for 26 wells. The examiner has also officially noticed the Commission's Production Data Query database which shows that for 2006, Platinum reported total production of 165,585 barrels of oil, 46,292 MCF of casinghead gas, 47,417 MCF of gas well gas, and 3 barrels of condensate.

Enforcement

Platinum designated itself operator of the T. L. Griffin "6-A" (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin "6-B" (02666) Lease, Well No. 4, and the T. L. Griffin "6-C" (02667) Lease, Well Nos. 8 and 12 by filing Forms P-4 (Certificate of Compliance and Transportation Authority) approved July 8, 2004, effective July 1, 2004. District Office photographs of the subject wells are attached to this proposal for decision as Appendix 1.

District Office inspections on May 10 and June 13, 2005, January 9, April 17, August 7, and November 17, 2006, and March 29, 2007, disclosed that the identification sign required by Statewide Rule 3 at the lease entrance of the T. L. Griffin "6-A" (02665) Lease did not display the required information and the required identification sign at the site of Well No. 2A on this lease was missing. Inspections on the same dates of the T. L. Griffin "6-B" (02666) Lease disclosed that the required identification sign at the site of Well No. 4 displayed incorrect information. District Office inspections on May 10, 2005, April 17, August 7, and December 15, 2006, and March 21, 2007, of the T. L. Griffin "6-C" (02667) Lease disclosed that the required identification signs at the lease entrance and the site of Well No. 8 were missing.

The District Office inspections of the T. L. Griffin "6-A" (02665) Lease on May 10 and June 13, 2005, January 9, April 17, August 7, and November 17, 2006, and March 29, 2007, also disclosed that Well Nos. 2A and 6 on the lease were inactive and unplugged. The May 10, 2005, inspection report stated that Well Nos. 2A and 6 had no pumping equipment, and the inspector was unable to open tubing valves to check pressure. Subsequent inspections noted no change in these conditions. As of the inspections on May 10 and June 13, 2005, the cellars of Well Nos. 2A and 6 contained oil and water. No production has been reported to the Commission for these wells since May 31, 2000. Plugging extensions for the wells were denied based on delinquent H-15 tests (Test on an Inactive Well More than 25 Years Old) in the case of Well No. 2A on July 25, 2005, and in the case of Well No. 6 on December 6, 2004. The estimated cost to the State to plug Well Nos. 2A and 6 is \$33,000.

The District Office inspections of the T. L. Griffin "6-B" (02666) Lease on May 10 and June 13, 2005, January 9, April 17, August 7, and November 17, 2006, and March 29, 2007, also disclosed that Well No. 4 on this lease was inactive and unplugged. The inspection reports for these dates stated that Well No. 4 had no pumping equipment. No production has been reported to the Commission for this well since November 30, 1998. A plugging extension for the well was denied on December 6, 2004, based on delinquency of a required H-15 test. The estimated cost to the State to plug Well No. 4 is \$16,500.

District Office inspections on May 10, 2005, April 17, August 7 and December 15, 2006, and March 31, 2007, of the T. L. Griffin "6-C" (02667) Lease, Well Nos. 8 and 12 disclosed that the wells were inactive and unplugged. The May 10, 2005, inspection report stated that Well Nos. 8 and 12 had no pumping equipment, and subsequent inspections noted no change. The May 10, 2005, and December 15, 2006, inspection reports stated that Well No. 8 had pressure on tubing or casing. The same inspection reports indicated that the inspector was unable to check pressure on Well No. 12 due to inoperable valves. No production has been reported to the Commission for these wells since August 31, 1999. Plugging extensions were denied for both wells on December 6, 2004, based on

delinquency of required H-15 tests. The estimated cost to the State to plug Well Nos. 8 and 12 is \$33,000.

The T. L. Griffin "6-A" (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin "6-B" (02666) Lease, Well No. 4, and the T. L. Griffin "6-C" (02667) Lease, Well Nos. 8 and 12 are more than 25 years old and are subject to the H-15 testing requirements of Statewide Rule 14(b)(3). Well Nos. 2A and 6 on the T. L. Griffin "6-A" (02665) Lease were completed on October 13, 1951, and July 3, 1952, respectively. Well No. 2A was last tested on June 26, 2001, and a further test was due in May 2002, but not performed. Well No. 6 was last tested on August 6, 2002, and a further test was due in May 2003, but not performed. Well No. 4 on the T. L. Griffin "6-B" (02666) Lease was completed on January 20, 1952. This well was last tested on August 6, 2002, and a further test was due in May 2003, but not performed. Well Nos. 8 and 12 on the T. L. Griffin "6-C" (02667) Lease were completed on June 21, 1952, and August 27, 1952, respectively. Well Nos. 8 and 12 were last tested on August 6, 2002, and further tests were due in May 2003, but not performed.

On 13 separate occasions between May 20, 2005, and December 8, 2006, the District Office sent Platinum correspondence, notices, or copies of memoranda requesting voluntary compliance with Commission rules on the subject leases. Platinum did not respond by bringing the subject leases and wells into compliance.

On October 12, 2004, Platinum filed Forms W-3A (Notice of Intention to Plug and Abandon) for the T. L. Griffin "6-A" (02665) Lease, Well No. 6, T. L. Griffin "6-B" (02666) Lease, Well No. 4, and the T. L. Griffin "6-C" (02667) Lease, Well Nos. 8 and 12, stating an anticipated plugging date of "On Approval." On July 19, 2005, Platinum filed a Form W-3A for the T. L. Griffin "6-A" (02665) Lease, Well No. 2A, stating an anticipated plugging date of December 1, 2005. On March 2, 2006, Platinum sent correspondence to the District Office stating that all of the subject wells had Forms W-3A on file and were "in line" to be plugged by a well plugger then plugging wells for Platinum in the area. On March 23, 2006, Platinum filed additional Forms W-3A for the T. L. Griffin "6-A" (02665) Lease, Well No. 6, and the T. L. Griffin "6-B" (02666) Lease, Well No. 4 stating anticipated plugging dates of August 1, 2006, and August 15, 2006, respectively. The subject wells have not been plugged.

A certification by the Commission's Secretary dated April 9, 2007, stated that no Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved, and no plugging extensions are in effect, for the subject wells.

An affidavit of Keith Barton, P.E., Field Operations, stated that in the event of a pollution or safety violation or other emergency, the lack of legible identification signs displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion may cause delays in containing and remediating the violation or emergency and threaten public health and safety.

The Barton affidavit stated that a well that is in violation of Statewide Rule 14, by having been inactive for one year, must be plugged in order to prevent pollution of usable quality surface or subsurface waters. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

The Barton affidavit stated also that any inactive well that is greater than 25 years of age must be plugged or tested to determine whether the well poses a potential threat of harm to natural resources. Casing leaks and/or fluid levels above the base of usable quality water indicate a possible pollution hazard. Without the test required by Statewide Rule 14(b)(3), the Commission cannot determine if the well poses a threat to natural resources.

Enforcement recommends that Platinum be ordered to pay an administrative penalty in the amount of \$21,250, less \$15,937.50 already paid. The total penalty recommended by Enforcement is calculated on the basis of five Rule 3 violations at \$250 each, five Rule 14(b)(2) violations at \$2,000 each, and five Rule 14(b)(3) violations at \$2,000 each.

Platinum

Platinum did not dispute the fact that the subject violations occurred or that Platinum is the operator responsible for the violations. On the other hand, Platinum requested more time to bring to fruition a plan to transfer the subject wells to another operator and thus to bring the wells into compliance.

Platinum has experienced financial difficulty during the past year or more. It has been negotiating with investors to form a new entity which would acquire a loan to pay off Platinum's obligations and to achieve compliance with Commission rules. The details are murky, but apparently, the new entity would acquire some or all of Platinum's properties, and Platinum's wells would be transferred to Saber Resources, LLC, or if Saber is not interested in certain wells, then to Prime Operating or Finley Resources. A schedule for compliance introduced into evidence by Platinum indicates a plan to transfer the five wells that are the subject of this docket to Saber

Resources, LLC by August 2007 in the case of the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, by September 2007 in the case of the T. L. Griffin “6-B” (02666) Lease, Well No. 4, by September 2007 in the case of the T. L. Griffin “6-C” (02667) Lease, Well No. 8, and by October 2007 in the case of the T. L. Griffin “6-C” (02667) Lease, Well No. 12. Platinum conceded that its mineral leases covering the properties on which the subject wells are located have terminated, and Saber will need to attempt to obtain new mineral leases. Because of its financial distress, Platinum is hopeful that any administrative penalties assessed in this docket will be reduced as much as possible.

EXAMINER’S OPINION

Enforcement proved that the alleged violations of Statewide Rules 3, 14(b)(2), and 14(b)(3) were committed, and Platinum is the responsible operator. The remaining issues are: (1) the amount of administrative penalties that should be imposed; and (2) the nature of compliance that should be ordered.

In determining the amount of the penalty to be imposed against Platinum, the Commission is required by Texas Natural Resources Code §81.0531 to consider the operator’s previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. According to Enforcement’s complaint in this docket, Platinum has no history of prior final enforcement orders entered against it for violations of Commission rules. On the other hand, the involved violations are serious, and present a hazard to the health and safety of the public, because of the threat of pollution of usable quality water presented by inactive and unplugged wellbores.

The “good faith” issue weighs heavily against Platinum, because Platinum did not respond to numerous requests of the District Office for voluntary compliance and did not live up to its repeated representations that the subject wells would be plugged. The penalties recommended by Enforcement are the standard penalties provided by the recommended standard penalty schedule for enforcement cases, and the examiner believes that they should be adopted. Accordingly, the examiner recommends that Platinum be ordered to pay a penalty of \$21,250, less \$15,937.50 already paid.

The examiner further recommends that Platinum be ordered to plug the subject wells. A “plug only” order is recommended because the subject wells have been inactive for more than six to eight years and are not equipped for production. All of the subject wells are more than 50 years old, and H-15 tests for these wells have been delinquent for four to five years. The T. L. Griffin “6-C” (02667) Lease, Well No. 8 has a history of pressure on tubing or casing, and Commission inspectors have been unable to check pressures on the T. L. Griffin “6-C” (02667) Lease, Well No. 12 and the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6 due to inoperable valves. Platinum appears to have agreed that all five of the subject wells are in need of plugging because in October 2004, July, 2005, and March 2006, it filed Forms W-3A (Notice of Intention to Plug and Abandon) for these wells.

Platinum's oil and gas leases covering the properties where the wells are located have terminated, meaning that Platinum no longer has a good faith claim of right to operate the wells and no eligibility for plugging extensions. There is no apparent reason why Saber Resources, LLC or any other operator would be interested in taking a transfer of the subject wells, and Platinum's speculation that the wells could be transferred to Saber by August, September, or October 2007 is without any support. There is no proof that Saber is willing to become the operator of the wells and, as far as the examiner can determine, no pending Forms P-4 pursuant to which such a transfer is proposed. Neither is there any proof that Saber has, or can obtain, oil and gas leases giving Saber a good faith claim of right to operate the wells. The examiner has officially noticed the Commission's On-Schedule Lease, Wells, Wellbores by Operator and P-4 Inquiry databases for Saber and its leases which show that currently, Saber is the operator of a total of 12 wells, only one of which was transferred from Platinum.

Based on the record in this case, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Platinum Exploration, Inc. ("Platinum") was given at least ten (10) days notice of this hearing by certified mail addressed to Platinum's most recent Form P-5 organization report address. Platinum appeared at the hearing and presented evidence.
2. Platinum is a corporation. Its officers are Harold James Rasmussen, President, Michael Paul Jobe, Vice President, and Gregory James Rasmussen, Vice President. These officers were persons in a position of ownership or control of Platinum at the time the violations involved in this docket were committed.
3. The violations involved in this docket were violations of Commission rules related to safety and the prevention or control of pollution.
4. Platinum's Form P-5 organization report is active, and Platinum has approved financial assurance on file with the Commission in the amount of \$250,000.
5. Platinum designated itself operator of the T. L. Griffin "6-A" (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin "6-B" (02666) Lease, Well No. 4, and the T. L. Griffin "6-C" (02667) Lease, Well Nos. 8 and 12, Hobo (Pennsylvanian) Field, Borden County, Texas, by filing Forms P-4 (Certificate of Compliance and Transportation Authority) approved July 8, 2004, effective July 1, 2004.
6. The T. L. Griffin "6-A" (02665) Lease, Well Nos. 2A and 6 have been inactive for more than twelve months, do not have Statewide Rule 14(b)(2) plugging extensions, and have not been plugged.

- a. District Office inspections of the T. L. Griffin "6-A" (02665) Lease on May 10 and June 13, 2005, January 9, April 17, August 7, and November 17, 2006, and March 29, 2007, disclosed that Well Nos. 2A and 6 on the lease were inactive and unplugged.
 - b. The May 10, 2005, inspection report disclosed that Well Nos. 2A and 6 had no pumping equipment, and the inspector was unable to open tubing valves to check pressure. Subsequent inspections noted no change in these conditions. As of the inspections on May 10 and June 13, 2005, the cellars of Well Nos. 2A and 6 contained oil and water.
 - c. No production has been reported to the Commission for these wells since May 31, 2000.
 - d. Plugging extensions for these wells were denied based on delinquent H-15 tests (Test on an Inactive Well More than 25 Years Old) in the case of Well No. 2A on July 25, 2005, and in the case of Well No. 6 on December 6, 2004.
 - e. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for these wells.
 - f. The estimated cost to the State to plug Well Nos. 2A and 6 is \$33,000.
7. The T. L. Griffin "6-B" (02666) Lease, Well No. 4 has been inactive for more than twelve months, does not have a Statewide Rule 14(b)(2) plugging extension, and has not been plugged.
- a. District Office inspections of the T. L. Griffin "6-B" (02666) Lease on May 10 and June 13, 2005, January 9, April 17, August 7, and November 17, 2006, and March 29, 2007, disclosed that Well No. 4 on this lease was inactive and unplugged.
 - b. The inspection reports for these dates stated that Well No. 4 had no pumping equipment.
 - c. No production has been reported to the Commission for this well since November 30, 1998.
 - d. A plugging extension for the well was denied on December 6, 2004, based on delinquency of a required H-15 test.

- e. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for Well No. 4.
 - f. The estimated cost to the State to plug Well No. 4 is \$16,500.
8. The T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12 have been inactive for more than twelve months, do not have Statewide Rule 14(b)(2) plugging extensions, and have not been plugged.
- a. District Office inspections on May 10, 2005, April 17, August 7 and December 15, 2006, and March 31, 2007, of the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12 disclosed that the wells were inactive and unplugged.
 - b. The May 10, 2005, inspection report stated that Well Nos. 8 and 12 had no pumping equipment, and subsequent inspections noted no change. The May 10, 2005, and December 15, 2006, inspection reports stated that Well No. 8 had pressure on tubing or casing. The same inspection reports indicated that the inspector was unable to check pressure on Well No. 12 due to inoperable valves.
 - c. No production has been reported to the Commission for these wells since August 31, 1999.
 - d. Plugging extensions were denied for both wells on December 6, 2004, based on delinquency of required H-15 tests.
 - e. No Plugging Record (Form W-3) or Cementing Affidavit (Form W-15) has been filed or approved for Well Nos. 8 and 12.
 - f. The estimated cost to the State to plug Well Nos. 8 and 12 is \$33,000.
9. The subject wells are more than 25 years old and have not been tested as required by Statewide Rule 14(b)(3).
- a. Well Nos. 2A and 6 on the T. L. Griffin “6-A” (02665) Lease were completed on October 13, 1951, and July 3, 1952, respectively. Well No. 2A was last tested on June 26, 2001, and a further test was due in May 2002, but not performed. Well No. 6 was last tested on August 6, 2002, and a further test was due in May 2003, but not performed.
 - b. Well No. 4 on the T. L. Griffin “6-B” (02666) Lease was completed on January 20, 1952. This well was last tested on August 6, 2002, and a further test was due in May 2003, but not performed.

- c. Well Nos. 8 and 12 on the T. L. Griffin “6-C” (02667) Lease were completed on June 21, 1952, and August 27, 1952, respectively. Well Nos. 8 and 12 were last tested on August 6, 2002, and further tests were due in May 2003, but not performed.
10. Platinum’s oil and gas leases covering the properties on which the subject wells are located have terminated, and Platinum no longer possesses a good faith claim of right to operate the wells.
11. On 13 separate occasions between May 20, 2005, and December 8, 2006, the District Office sent Platinum correspondence, notices, or copies of memoranda requesting voluntary compliance with Commission rules on the subject leases. Platinum did not respond by bringing the subject leases and wells into compliance.
12. On October 12, 2004, Platinum filed Forms W-3A (Notice of Intention to Plug and Abandon) for the T. L. Griffin “6-A” (02665) Lease, Well No. 6, T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, stating an anticipated plugging date of “On Approval.” On July 19, 2005, Platinum filed a Form W-3A for the T. L. Griffin “6-A” (02665) Lease, Well No. 2A, stating an anticipated plugging date of December 1, 2005. On March 2, 2006, Platinum sent correspondence to the District Office stating that all of the subject wells had Forms W-3A on file and were “in line” to be plugged by a well plugger then plugging wells for Platinum in the area. On March 23, 2006, Platinum filed additional Forms W-3A for the T. L. Griffin “6-A” (02665) Lease, Well No. 6, and the T. L. Griffin “6-B” (02666) Lease, Well No. 4 stating anticipated plugging dates of August 1, 2006, and August 15, 2006, respectively. The subject wells have not been plugged.
13. In the event of a pollution or safety violation or other emergency, the lack of legible identification signs displaying correct information may cause confusion as to the responsible operator to be contacted and the actual location of the violation or emergency. Such confusion may cause delays in containing and remediating the violation or emergency and threaten public health and safety.
14. A well that is in violation of Statewide Rule 14, by having been inactive for one year, must be plugged in order to prevent pollution of usable quality surface or subsurface waters. Any wellbore, cased or otherwise, is a potential conduit for flow from oil or saltwater zones to zones of usable quality water or to the surface. Holes or leaks may develop in cased wells, allowing oil or saltwater to communicate with usable quality water zones or to flow to the surface. Uncased wells allow direct communication between zones and provide unimpeded access to the surface.

15. Any inactive well that is greater than 25 years of age must be plugged or tested to determine whether the well poses a potential threat of harm to natural resources. Casing leaks and/or fluid levels above the base of usable quality water indicate a possible pollution hazard. Without the test required by Statewide Rule 14(b)(3), the Commission cannot determine if the well poses a threat to natural resources.
16. No prior final enforcement orders have been entered against Platinum for violations of Commission rules.
17. Platinum has not demonstrated good faith because it did not achieve voluntary compliance with Commission rules in response to multiple requests of the District Office for such compliance.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to appropriate persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Platinum Exploration, Inc. (“Platinum”) was and is the operator of the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, Hobo (Pennsylvanian) Field, Borden County, Texas, as defined by Statewide Rules 14, 58, and 79 [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §§3.14, 3.58, and 3.79] and Chapters 85 and 89 of the Texas Natural Resources Code.
4. As operator, Platinum had the primary responsibility for complying with Statewide Rules 3, 14(b)(2), and 14(b)(3) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §§3.3, 3.14(b)(2), and 3.14(b)(3)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, Hobo (Pennsylvanian) Field, Borden County, Texas.
5. Platinum violated Statewide Rule 3 by failing to post and maintain the identification signs required by Statewide Rule 3 at the lease entrance and site of Well No. 2A on the T. L. Griffin “6-A” (02665) Lease, at the site of Well No. 4 on the T. L. Griffin “6-B” (02666) Lease, and at the lease entrance and site of Well No. 8 on the T. L. Griffin “6-C” (02667) Lease. Platinum was out of compliance with Statewide Rule 3 on these leases from at least March 10, 2005, through at least March 29, 2007.

6. Platinum violated Statewide Rule 14(b)(2) by failing to plug the subject wells within one year after operations ceased and by failing otherwise to bring the wells into compliance with Statewide Rule 14(b)(2). The subject wells have been out of compliance with Statewide Rule 14(b)(2) since December 6, 2004, in the case of the T. L. Griffin “6-A” (02665) Lease, Well No. 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, and since July 25, 2005, in the case of the T. L. Griffin “6-A” (02665) Lease, Well No. 2A.
7. Platinum violated Statewide Rule 14(b)(3) by failing to perform required H-15 tests (Test on an Inactive Well More than 25 Years Old) on the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12 . The T. L. Griffin “6-A” (02665) Lease, Well No. 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12 have been out of compliance with Statewide Rule 14(b)(3) since May 2003, and the T. L. Griffin “6-A” (02665) Lease, Well No. 2A has been out of compliance with this rule since May 2002.
8. The documented violations committed by Platinum constitute acts deemed serious and a hazard to the public health and safety within the meaning of Texas Natural Resources Code §81.0531.
9. Platinum did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.
10. As officers of Platinum at the time Platinum violated Commission rules related to safety and the prevention or control of pollution, Harold James Rasmussen, Michael Paul Jobe, and Gregory James Rasmussen, and any organization subject to the Commission’s jurisdiction in which they, or any of them, may hold a position of ownership or control, are subject to the restrictions of Texas Natural Resources Code §91.114(a)(2).

RECOMMENDATION

The examiner recommends that Platinum be ordered to pay an administrative penalty in the amount of \$21,250, less \$15,937.50 already paid. The examiner recommends further that Platinum be ordered to plug the T. L. Griffin “6-A” (02665) Lease, Well Nos. 2A and 6, the T. L. Griffin “6-B” (02666) Lease, Well No. 4, and the T. L. Griffin “6-C” (02667) Lease, Well Nos. 8 and 12, Hobo (Pennsylvanian) Field, Borden County, Texas.

Respectfully submitted,

James M. Doherty
Hearings Examiner