

OIL & GAS DOCKET NO. 8A-0249475

ENFORCEMENT ACTION AGAINST PLATINUM EXPLORATION, INC. (OPERATOR NO. 667939) FOR VIOLATIONS OF STATEWIDE RULES ON THE GRIFFIN "F" (61469) LEASE, WELL NO. 1, HOBO (PENNSYLVANIAN) FIELD, BORDEN COUNTY, TEXAS, AND THE LANE (60008) LEASE, WELL NOS. 1D, 2, AND 3, E. REINECKE (CANYON) 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:	December 15, 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 in compliance with Statewide Rule 14(b)(2) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(2)] the Griffin “F” (61469) Lease, Well No. 1, Hobo (Pennsylvanian) Field, Borden County, Texas, and the Lane (60008) Lease, Well Nos. 1D, 2, and 3, E. Reinecke (Canyon) 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 identification signs at the lease entrance and at the site of Well No. 1 on the Griffin “F” (61469) Lease;
3. Whether Platinum violated Statewide Rule 14(b)(3) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.14(b)(3)] by failing to perform required H-15 tests (Test on an Inactive Well More than 25 Years Old) on the Griffin “F” (61469) Lease, Well No. 1 and the Lane (60008) Lease, Well No. 3;
4. Whether Platinum violated Statewide Rule 17(a)-(b) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.17(a)-(b)] by failing properly to test Well No. 2 on the Lane (60008) Lease after pressure developed on the tubing of the well and by failing to notify the District Office of the pressure on tubing;
5. Whether Platinum violated Statewide Rule 36 [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.36] by failing to file Form H-9 (Hydrogen Sulfide Certificate of Compliance) after taking a transfer of the Griffin “F” Lease (61469) Lease, Well No. 1 effective July 1, 2004, by failing to post hydrogen sulfide warning signs on the lease, any by failing to notify the Commission of a cessation or abandonment of operations at Well No. 1 on the lease;
6. Whether Platinum violated Statewide Rule 46(j) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §3.46(j)] by failing to conduct a required pressure test of the mechanical integrity of the Lane (60008) Lease, Well No. 1D;
7. 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), 14(b)(3), 17(a)-(b), 36, and 46(j);
8. 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

9. Whether any violations of Statewide Rules 3, 14(b)(2), 14(b)(3), 17(a)-(b), 36 and 46(j) 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.

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.

Pursuant to Statewide Rule 17(a), all wells must be equipped with a Bradenhead, and whenever pressure develops between any two strings of casing, the District Office must be notified immediately. Statewide Rule 17(b) provides that a well showing pressure on the Bradenhead shall be tested in the manner prescribed by Statewide Rule 17(b).

Statewide Rule 36(a) requires each operator who conducts operations in a hydrogen sulfide area to provide safeguards to protect the general public from the harmful effects of hydrogen sulfide. Statewide Rule 36(c)(1) requires each operator to determine the hydrogen sulfide concentration in the gaseous mixture in the operator’s operation or system. Statewide Rule 36(d)(1) requires that a certificate of compliance Form H-9 (Hydrogen Sulfide Certificate of Compliance) be submitted for operations or systems in a hydrogen sulfide area. Pursuant to Statewide Rule 36(d)(1)(M), these certificates are non-transferrable, and any new operator of a hydrogen sulfide system or any acquired element of a system or operation is required to certificate that operation. Statewide Rule 36(d)(1)(J),

¹ This docket was heard jointly with Oil & Gas Docket Nos. 02-0248250, 8A-0248249, 08-0248259, and 8A-0249476 involving the same respondent. Separate proposals for decision are being issued in each docket.

provides that an operator is required to notify the Commission within 30 days following cessation or abandonment of operations in a certificated hydrogen sulfide area.

Statewide Rule 46(j) requires that the mechanical integrity of injection wells be evaluated by conducting pressure tests to determine whether the well tubing, packer, or casing have sufficient mechanical integrity to meet the performance standards of Statewide Rule 46. Each injection well completed with surface casing set and cemented through the entire interval of protected usable quality water must be tested for mechanical integrity at least once every five years. An injection well that is completed without surface casing set and cemented throughout the entire interval of protected usable quality ground water must be tested at the frequency prescribed in the injection permit.

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 Griffin "F" (61469) Lease, Well No. 1 by filing a Form P-4 (Certificate of Compliance and Transportation Authority) which was approved on July 8, 2004, effective July 1, 2004. Platinum designated itself operator of the Lane (60008) Lease, Well Nos. 1D, 2, and 3, by filing a Form P-4 which was approved July 17, 2002, effective July 1, 2002.

District Office inspections of the Griffin "F" (61469) Lease on April 17 and August 7, 2006, disclosed that the identification signs required by Statewide Rule 3 to be posted at the lease entrance and at Well No. 1 were missing.

District Office inspections of the Griffin "F" (61469) Lease on April 17, August 7, and November 22, 2006, and January 15, 2007, showed that Well No. 1 was inactive and unplugged. The January 15, 2007, inspection report stated that Well No. 1 had no pumping equipment, and the inspector was unable to check pressures because of inoperable or missing valves. No production has been reported to the Commission for the Griffin "F" (62469) Lease, Well No. 1 since September 30, 2001. Well No. 1 was denied a plugging extension on December 6, 2004, because a required H-15 test (Test on an Inactive Well More than 25 Years Old) was delinquent.

District Office photographs of the Lane (60008) Lease, Well Nos. 1D, 2, and 3, are attached to this proposal for decision as Appendix 1. Well No. 1D on the Lane (60008) Lease is a permitted saltwater disposal well (UIC No. 25856). District Office inspections of this well on May 11 and June 13, 2005, January 23, August 7, and November 22, 2006, and March 31, 2007, disclosed that the well was inactive and unplugged. The May 11, 2005, inspection report stated that Well No. 1D had no pumping equipment, and the inspector was unable to check the surface casing for pressure. No injection activity for Well No. 1D has been reported to the Commission since August 31, 2001. This well was denied a plugging extension on December 6, 2004, because a required mechanical integrity test was delinquent.

The District Office inspections of the Lane (60008) Lease on May 11 and June 13, 2005, January 23, August 7, and November 22, 2006, and March 31, 2007, disclosed also that Well Nos. 2 and 3 were inactive and unplugged. The May 11, 2005, inspection report stated that these two wells had no pumping equipment, and the inspector was unable to open valves on the casing of Well No. 2. On the occasion of the January 23, 2006, inspection, Well Nos. 2 and 3 were found to be pressured up, but no pressure was observed on subsequent inspections. No production has been reported to the Commission for the Lane (60008) Lease, Well Nos. 2 and 3 since August 31, 1999. Well No. 3 was denied a plugging extension on December 6, 2004, and Well No. 2 was denied such an extension on October 19, 2005.

The estimated cost to the State to plug the Griffin "F" (61469) Lease, Well No. 1 is \$16,500, and the estimated cost to plug the Lane (60008) Lease, Well Nos. 1D, 2, and 3 is \$43,200.

The Griffin "F" (61469) Lease, Well No. 1 was completed on July 31, 1975, and the well is more than 25 years old. A required H-15 test (Test on an Inactive Well More than 25 Years Old) was due on Well No. 1 in May 2004, and was not performed. The Lane (60008) Lease, Well No. 3 was completed on April 1, 1966, and this well is also more than 25 years old and subject to the testing requirements of Statewide Rule 14(b)(3). A required H-15 test was due for Well No. 3 in May 2003, and was not performed.

The May 11, 2005, District Office inspection of the Lane (60008) Lease, Well No. 2 disclosed that Platinum had caused or allowed pressure to develop on the tubing of the well. The inspector was unable to gauge the pressure at the well. A follow-up inspection on January 23, 2006, showed that pressure remained on the tubing. Well No. 2 was not tested as required by Statewide Rule 17(b), and Platinum did not notify the District Office of the pressure on tubing as required by Statewide Rule 17(a).

Platinum did not file a Form H-9 (Hydrogen Sulfide Certificate of Compliance) upon becoming operator of the Griffin "F" (61469) Lease, Well No. 1, which is a well located in a documented hydrogen sulfide field. Platinum also failed to notify the Commission of the cessation or abandonment of operations on Well No. 1.

The lack of any reported injection activity for the Lane (60008) Lease, Well No. 1D since August 31, 2001, indicates that the well has been inactive since that date, and a series of District Office inspections beginning on May 11, 2005, confirmed that the well is inactive. The injection permit for this well requires an annual mechanical integrity test. The last mechanical integrity test performed on Well No. 1D was performed on May 2, 1997.

On at least nine separate occasions between May 20, 2005, and December 8, 2006, the District Office sent Platinum correspondence, notices, or memoranda requesting that the involved violations be corrected. On February 23, 2005, Platinum filed a Form W-3A (Notice of Intention to Plug and Abandon) for the Lane (60008) Lease, Well No. 1D, stating an anticipated plugging date of "ASAP." On July 19, 2005, Platinum filed Forms W-3A for the Lane (60008) Lease, Well Nos. 2 and 3, stating an anticipated plugging date of November 1, 2005, for Well No. 2 and November 7, 2005, for Well No. 3. On March 2, 2006, Platinum sent correspondence to the District Office stating that Forms W-3A were on file for the Griffin "F" (61469) Lease, Well No. 1 and the Lane (60008) Lease, Well Nos. 1D, 2, and 3. This correspondence stated that all of these wells would be plugged by a well plugger being used by Platinum before the well plugger left the area. On March 23, 2006, Platinum filed another Form W-3A for the Lane (60008) Lease, Well No. 1D, stating an anticipated plugging date of August 1, 2006. 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. This certification stated also that a diligent search of Commission records revealed that no approved Forms H-15 had been filed for the Griffin "F" (61469) Lease, Well No. 1 or the Lane (60008) Lease, Well No. 3, and no successful MIT test for the Lane (60008) Lease, Well No. 1D had been reported since May 2, 1997.

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.

The Barton affidavit stated further that without a pressure observation valve, pressure on the annulus of a well may not be detected. A well must be equipped with a Bradenhead to detect pressure and/or leaks within a wellbore. When pressure develops, the appropriate District Office must be notified immediately, and the well must be tested in conformity with Statewide Rule 17. Undetected and continuing pressure on surface casing may result in contamination of usable quality groundwater and threaten the public health and safety.

The Barton affidavit also stated that an operator of an oil, gas or geothermal resource operation in a hydrogen sulfide area that fails to test and report (on Form H-9) the hydrogen sulfide concentration in the gaseous mixture in its operation, and fails to report any transfer and/or abandonment of the operation, may cause injury or death to members of the public.

The Barton affidavit stated further that any injection or disposal of fluid down a wellbore could be a potential source of pollution. Under Statewide Rule 46(j), operators must pressure test each injection well at least once every five years to show that the well is not leaking, waste is being confined to the permitted injection interval, and usable water zones are properly isolated from possible contamination. Injection or disposal wells may be assigned a more frequent pressure testing schedule as conditions of the Commission-issued permit. Wells subjected to a more frequent pressure testing permit requirement pose a higher risk of contamination of usable quality water strata based on technical review of the engineering design and completion techniques used in creation of the wellbore.

Enforcement recommends that Platinum be ordered to pay an administrative penalty in the

amount of \$16,000, calculated on the basis of two Rule 3 violations at \$250 each, four Rule 14(b)(2) violations at \$2,000 each, two Rule 14(b)(3) violations at \$2,000 each, one Rule 17 violation at \$1,000, one Rule 36 violation at \$500, and one Rule 46(j) violation at \$2,000.

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 four wells that are the subject of this docket to Saber Resources, LLC by June 2007 in the case of the Griffin "F" (61469) Lease, Well No. 1, by October 2007 in the case of the Lane (60008) Lease, Well No. 1D, and by November 2007 in the case of the Lane (60008) Lease, Well Nos. 2 and 3. 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), 14(b)(3), 17(a)-(b), 36, and 46(j) 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 and the threat to the public safety presented by the failure of an operator to test and report (on Form H-9) the hydrogen sulfide concentration in the gaseous mixture in its operation and report any transfer and/or abandonment of the operation.

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 \$16,000.

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 five to seven years and are not equipped for production, or in the case of the Lane (60008) Lease, Well No. 1D, not equipped for injection. The evidence indicates that the Griffin “F” (61469) Lease, Well No. 1 and the Lane (60008) Lease, Well No. 3 are more than 25 years old, and fluid level tests on these wells required by Statewide Rule 14(b)(3) are 3-4 years delinquent. A required mechanical integrity test of the Lane (60008) Lease, Well No. 1D is 9 years delinquent. The Griffin “F” (61469) Lease, Well No. 1 has a history of inoperable valves preventing inspection of the well for pressure. The Lane (60008) Lease, Well Nos. 2 and 3 have a history of being pressured up on the occasion of District Office inspections. Platinum appears to have agreed that all four of the subject wells are in need of plugging because in February and 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 a plugging extension. 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 June, October and November 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 Griffin "F" (61469) Lease, Well No. 1, Hobo (Pennsylvanian) Field, Borden County, Texas, by filing a Form P-4 (Certificate of Compliance and Transportation Authority) which was approved on July 8, 2004, effective July 1, 2004. Platinum designated itself operator of the Lane (60008) Lease, Well Nos. 1D, 2, and 3, E. Reinecke (Canyon) Field, Borden County, Texas, by filing a Form P-4 which was approved July 17, 2002, effective July 1, 2002.
6. District Office inspections of the Griffin "F" (61469) Lease on April 17 and August 7, 2006, disclosed that the identification signs required by Statewide Rule 3 to be posted at the lease entrance and at Well No. 1 were missing.
7. The Griffin "F" (61469) Lease, Well No. 1 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 on April 17, August 7, and November 22, 2006, and January 15, 2007, disclosed that Well No. 1 was inactive and unplugged.
 - b. The January 15, 2007, inspection report stated that Well No. 1 had no pumping equipment, and the inspector was unable to check pressures because of inoperable or missing valves.
 - c. No production has been reported to the Commission for this lease and well since September 30, 2001.
 - d. Well No. 1 was denied a plugging extension on December 6, 2004, because a required H-15 test (Test on an Inactive Well More than 25 Years Old) was delinquent.
8. The Lane (60008) Lease, Well No. 1D is a permitted saltwater disposal well. This well 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 on May 11 and June 13, 2005, January 23, August 7, and November 22, 2006, and March 31, 2007, disclosed that this well was inactive and unplugged.
 - b. The May 11, 2005, inspection report stated that Well No. 1D had no pumping equipment, and the inspector was unable to check the surface casing for pressure.
 - c. No injection activity for Well No. 1D has been reported to the Commission since August 31, 2001.
 - d. Well No. 1D was denied a Statewide Rule 14(b)(2) plugging extension on December 6, 2004, because a required mechanical integrity test was delinquent.
9. The Lane (60008) Lease, Well Nos. 2 and 3 have been inactive for more than twelve months, do not have a Statewide Rule 14(b)(2) plugging extension, and have not been plugged.
- a. District Office inspections on May 11 and June 13, 2005, January 23, August 7, and November 22, 2006, and March 31, 2007, disclosed that Well Nos. 2 and 3 were inactive and unplugged.
 - b. The May 11, 2005, inspection report stated that these two wells had no pumping equipment, and the inspector was unable to open valves on the casing of Well No. 2.
 - c. The January 23, 2006, inspection report stated that Well Nos. 2 and 3 were pressured up, but no pressure was reported on subsequent inspections.
 - d. No production has been reported to the Commission for Well Nos. 2 and 3 since August 31, 1999.
 - e. Well No. 3 was denied a Statewide Rule 14(b)(2) plugging extension on December 6, 2004, and Well No. 2 was denied such an extension on October 19, 2005, because of operator filing problems.
10. On February 23, 2005, Platinum filed a Form W-3A (Notice of Intention to Plug and Abandon) for the Lane (60008) Lease, Well No. 1D, stating an anticipated plugging date of "ASAP". On July 19, 2005, Platinum filed Forms W-3A for the Lane (60008) Lease, Well Nos. 2 and 3, stating an anticipated plugging date of November 1, 2005, for Well No. 2 and November 7, 2005, for Well No. 3. On March 2, 2006, Platinum sent correspondence to the District Office stating that Forms W-3A were on file for all four of the subject wells, and these wells would be plugged by a well plugger being used by Platinum before the well plugger left the area. On March 23, 2006, Platinum filed another Form W-3A for the Lane (60008) Lease, Well No. 1D, stating an anticipated plugging dated of August 1, 2006. The subject wells were not plugged as represented in these filings.

11. The estimated cost to the State to plug the Griffin “F” (61469) Lease, Well No. 1 is \$16,500, and the estimated cost to plug the Lane (60008) Lease, Well Nos. 1D, 2, and 3 is \$43,200.
12. The Griffin “F” (61469) Lease, Well No. 1 was completed on July 31, 1975, and the well is more than 25 years old. A required H-15 test (Test on an Inactive Well More than 25 Years Old) was due on Well No. 1 in May 2004, and no test has been performed since that date. The Lane (60008) Lease, Well No. 3 was completed on April 1, 1966, and this well is also more than 25 years old and subject to the testing requirements of Statewide Rule 14(b)(3). A required H-15 test was due for Well No. 3 in May 2003, and has not been performed since that date.
13. A May 11, 2005, District Office inspection of the Lane (60008) Lease, Well No. 2 disclosed that Platinum had caused or allowed pressure to develop on the tubing of the well. The inspector was unable to gauge the pressure at the well. A follow-up inspection on January 23, 2006, showed that pressure remained on the tubing. Well No. 2 was not tested as required by Statewide Rule 17(b), and Platinum did not notify the District Office of the pressure on tubing as required by Statewide Rule 17(a).
14. Platinum did not file a Form H-9 (Hydrogen Sulfide Certificate of Compliance) upon becoming operator of the Griffin “F” (61469) Lease, Well No. 1, which is a well is located in a documented hydrogen sulfide field. Platinum also failed to notify the Commission of the cessation or abandonment of operations on Well No. 1.
15. The injection permit for Well No. 1D on the Lane (60008) Lease requires an annual mechanical integrity test. The last mechanical integrity test performed on Well No. 1D was performed on May 2, 1997.
16. Platinum’s oil and gas lease covering the properties on which the subject wells are located has terminated, and Platinum no longer possesses a good faith claim of right to operate the wells.
17. On at least nine occasions between May 20, 2005, and December 8, 2006, the District Office sent Platinum correspondence, notices, or memoranda requesting voluntary compliance with Commission rules with respect to the subject wells. Platinum did not bring the wells into compliance in response to these requests.
18. No Plugging Record (Form W-3) or Cementing Affidavit has been filed or approved, and no plugging extensions are in effect, for the subject wells. No approved Forms H-15 have been filed for the Griffin “F” (61469) Lease, Well No. 1 or the Lane (60008) Lease, Well No. 3, and no successful MIT test for the Lane (60008) Lease, Well No. 1D has been reported to the Commission since May 2, 1997.

19. In the event of a pollution or safety violation or other emergency, the lack of legible identification signs displaying correct information, as required by Statewide Rule 3, 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.
20. 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.
21. 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.
22. Without a pressure observation valve, pressure on the annulus of a well may not be detected. A well must be equipped with a Bradenhead to detect pressure and/or leaks within a wellbore. When pressure develops, the appropriate District Office must be notified immediately, and the well must be tested in conformity with Statewide Rule 17. Undetected and continuing pressure on surface casing may result in contamination of usable quality ground water and threaten the public health and safety.
23. An operator of an oil, gas or geothermal resource operation in a hydrogen sulfide area that fails to test and report (on Form H-9) the hydrogen sulfide concentration in the gaseous mixture in its operation, and fails to report any transfer and/or abandonment of the operation as required by Statewide Rule 36, may cause injury or death to members of the public as a result of the release of hydrogen sulfide into the atmosphere.
24. Any injection or disposal of fluid down a wellbore could be a potential source of pollution. Under Statewide Rule 46(j), operators must pressure test each injection well at least once every five years to show that the well is not leaking, waste is being confined to the permitted injection interval, and usable water zones are properly isolated from possible contamination. Injection or disposal wells may be assigned a more frequent pressure testing schedule as conditions of the Commission-issued permit. Wells subjected to a more frequent pressure testing permit requirement pose a higher risk of contamination of usable quality water strata based on technical review of the engineering design and completion techniques used in creation of the wellbore.

25. No prior final enforcement orders have been entered against Platinum for violations of Commission rules.
26. 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 Griffin “F” (61469) Lease, Well No. 1, Hobo (Pennsylvanian) Field, Borden County, Texas, and the Lane (60008) Lease, Well Nos. 1D, 2, and 3, E. Reinecke (Canyon) 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), 14(b)(3), 17(a)-(b), 36, and 46(j) [Tex. R.R. Comm’n, 16 TEX. ADMIN. CODE §§3.3, 3.14(b)(2), 3.14(b)(3), 3.17(a)-(b), 3.36, and 3.46(j)], Chapters 89 and 91 of the Texas Natural Resources Code, and other applicable statutes and Commission rules respecting the Griffin “F” (61469) Lease, Well No. 1, Hobo (Pennsylvanian) Field, Borden County, Texas, and the Lane (60008) Lease, Well Nos. 1D, 2, and 3, E. Reinecke (Canyon) 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. 1 of the Griffin “F” (61469) Lease. Platinum was out of compliance with Statewide Rule 3 on this lease from at least April 17, 2006, through at least August 7, 2006.
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 at least December 6, 2004, in the case of the Griffin “F” (61469) Lease, Well No. 1 and the Lane (60008) Lease, Well Nos. 1D and 3, and since at least October 19, 2005, in the case of the Lane (60008) Lease, Well No. 2.
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 Griffin “F” (61469) Lease, Well No. 1 and the Lane (60008) Lease, Well No. 3. The Griffin “F” (61469) Lease, Well No. 1 has been out of compliance with Statewide Rule 14(b)(3) since May 2004, and the Lane (60008) Lease, Well No. 3 has been out of compliance with this rule since May 2003.

8. Platinum violated Statewide Rule 17(a)-(b) by causing or allowing pressure to develop on the tubing of the Lane (60008) Lease, Well No. 2, failing to test the well as required by Statewide Rule 17(b), and failing to notify the District Office as required by Statewide Rule 17(a). Platinum has been out of compliance with Statewide Rule 17(a)-(b) since at least May 11, 2005.
9. Platinum violated Statewide Rule 36 by failing to test the hydrogen sulfide concentration in the gaseous mixture in the operation of the Griffin "F" (61469) Lease, Well No. 1 and to report the results on Form H-9 (Hydrogen Sulfide Certificate of Compliance) upon becoming the operator of the lease and well and by failing to notify the Commission of the cessation or abandonment of operations on the well. Platinum has been out of compliance with Statewide Rule 36 since July 8, 2004.
10. Platinum violated Statewide Rule 46(j) by failing to conduct required mechanical integrity tests on the Lane (60008) Lease, Well No. 1D. Platinum has been out of compliance with Statewide Rule 46(j) since May 1998.
11. 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.
12. Platinum did not demonstrate good faith within the meaning of Texas Natural Resources Code §81.0531.
13. 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 \$16,000. The examiner recommends further that Platinum be ordered to plug the Griffin "F" (61469) Lease, Well No. 1, Hobo (Pennsylvanian) Field, Borden County, Texas, and the Lane (60008) Lease, Well Nos. 1D, 2, and 3, E. Reinecke (Canyon) Field, Borden County, Texas.

Respectfully submitted,

James M. Doherty
Hearings Examiner