

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

ACO 08- 246

IN THE MATTER OF MANHATTAN PETROLEUM, INC.,
Respondent.

**AGREED ORDER DIRECTING COMPLIANCE
AND ASSESSING CIVIL PENALTY**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (Act), and the rules promulgated under the Act, the Director of the Oil Conservation Division of the Energy Minerals and Natural Resources Department of the State of New Mexico (OCD) issues this Order to Manhattan Petroleum, Inc. (Manhattan) directing compliance with the Act and OCD rules, and assessing a penalty for violations of the Act and OCD rules.

I. FINDINGS & DETERMINATIONS BY THE OCD

1. The OCD is the state division charged with administration and enforcement of the Act and OCD rules.
2. Manhattan is a corporation operating wells in New Mexico under OGRID 226563.
3. Manhattan Petroleum, Inc. (Manhattan) filed an application for permit to drill the Caudill 33 #1, 30-025-37804, on April 13, 2006, proposing to use a closed loop system.
4. The OCD approved the permit with conditions, including the condition that the well be constructed using a pit rather than a closed loop system.
5. On April 17, 2006, Manhattan filed a C-103 Sundry Notice amending its application for permit to drill the Caudill 33 #1 to include a pit. On the C-103 Manhattan certified that the pit "will be constructed or closed according to NMOCD guidelines." The OCD's Pit Guidelines provide that a pit shall be closed within six months after cessation of use, and require submittal of a closure plan. See Pit Guidelines, pp. 4-5.
6. On January 23, 2007 the OCD sent Manhattan a letter of violation regarding an unauthorized discharge at the Caudill 33 #1 and the need for a C-141 reporting the release. The letter of violation also stated

OTHER FORMS THAT HAVE NOT BEEN SUBMITTED INCLUDE C-103
SUBSEQUENT REPORT, (COMMENCEMENT OF DRILLING
OPERATIONS 19.15.13.1103 NMAC). (RESULTS OF CASING TEST AND
CEMENT JOB 19.15.1.107). C-105, (WELL COMPLETION AND
ELECTRICAL AND RADIO-ACTIVITY LOGS). FAILURE TO FOLLOW
REPORTING PROCEDURE CAN RESULT IN A MONETARY FINE OF
\$1000 PER DAY. IF YOU HAVE ANY QUESTIONS CONTACT CHRIS

WILLIAMS FOR AN ADMINISTRATIVE CONFERENCE AT HOBBS-OCD,
505-393-6161 EXT. 102. THIS IS 1ST AND LAST LETTER OF VIOLATION.

7. Manhattan filed the required C-141 regarding the release.
8. On February 20, 2007, Manhattan filed a C-103 Sundry Notice subsequent report on commencement of drilling operations and the casing/cement job. The C-103 reported that the well was spud on April 21, 2006 and first perforated on July 14, 2006.
9. The casings would have been set, and the pit no longer in use, by July 14, 2006.
10. Deputy Inspector Brown inspected the Caudill 33 #1 well on April 25, 2007 and found the drilling pit open.
11. Deputy Inspector Brown inspected the Caudill 33 #1 well again on June 7, 2007 and found the drilling pit open.
12. On June 7, 2007, the OCD sent Manhattan a letter of violation informing the operator that it was in violation of Rule 50, needed to close the drilling pit, and that corrective action was due by September 10, 2007.
13. On June 18, 2007, Manhattan filed a C-103 Sundry Notice of intent to perform remedial work at the Caudill 33 #1.
14. Deputy Inspector Brown inspected the Caudill 33 #1 well on July 13, 2007, and found the pit still open and no activity at the well. At that time the pit contents and the surrounding area were dry.
15. On September 17, 2007, Deputy Inspector Brown inspected the Caudill 33 #1 well, and found fluids in the pit. Tire tracks and broken weeds led to the southwest corner of the pit.
16. On November 6, 2007, Manhattan filed a C-144 pit closure form, indicating that it intended to close the pit at the Caudill 33 State #1 well. The OCD approved the C-144 on November 7, 2007.
17. On April 9, 2008, Deputy Inspector Brown inspected the Caudill 33 #1 well, and found that the drilling pits had been partially closed, and that Manhattan had not filed a completed C-105 with well logs and deviation survey.
18. On April 9, 2008, the OCD mailed Manhattan a Letter of Violation identifying the following violations:

DRILLING PITS ARE NOT CLOSED. RULE 50. PITS HAVE BEEN
PARTIALLY CLOSED. NEED TO FINISH CLOSING PITS AS INDICATED
ON C-144 ADDITIONAL COMMENTS SUBMITTED AND APPROVED 11-7-
2007. 2ND LETTER OF NON-COMPLIANCE. ALSO NEED TO SUBMIT

COMPLETED C-105 WITH WELL LOGS AND DEVIATION SURVEY. 1ST
LETTER OF NON-COMPLIANCE ON C-105.

The Letter of Violation stated that corrective action was required by May 13, 2008.

19. On May 13, 2008, Deputy Inspector Brown inspected the Caudill 33 #1 well, and found the following:

PITS ARE STILL OPEN. ALSO NO WORK HAS BEEN DONE TO RETURN TO PROD, T/A OR P/A WELL AS STATED IN C-103 INTENT, DATE JUNE 18, 2007.

20. Rule 117 provides, in relevant part, "Within 20 days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different common source of supply, a completion report shall be filed with the division on Form C-105."

21. Rule 1105 provides in relevant part, that the C-105 must be accompanied by a summary of all special tests conducted on the well including drill stem tests, and one copy of all electrical and radio-activity logs run on the well.

22. Rule 50.F(1) requires that "a pit ... shall be properly closed within six month after cessation of use."

23. Rule 201 provides that a well shall be either properly plugged and abandoned or placed in approved temporary abandonment in accordance with OCD rules within 90 days after a period of one year in which a well has been continuously inactive.

24. NMSA 1978, Section 70-2-31(A) provides that "any person who knowingly and willfully violates any provision of the Oil and Gas Act or any provision of any rule or order issued pursuant to that act shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. For purposes of this subsection, in the case of a continuing violation, each day of violation shall constitute a separate violation."

25. NMSA 1978, Section 70-2-33(A) defines "person" to include "any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity."

26. Rule 19.15.1.7.K defines "knowingly and willfully," for the purpose of assessing civil penalties, as

The voluntary or conscious performance of an act that is prohibited or the voluntary or conscious failure to perform an act or duty that is required. It does not include performances or failures to perform that are honest mistakes or merely inadvertent. It includes, but does not require, performances or failures to perform that result from a criminal or evil intent or from a specific intent to violate the law. The conduct's knowing and willful nature may be established by plain

indifference to or reckless disregard of the requirements of the law, rules, orders or permits. A consistent pattern of performance or failure to perform also may be sufficient to establish the conduct's knowing and willful nature, where such consistent pattern is neither the result of honest mistake nor mere inadvertency. Conduct that is otherwise regarded as being knowing and willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

27. On May 20, 2008, the OCD issued Notice of Violation (1-08-05) to Manhattan, alleging violations of Rules 50.F(1), 117, 1105 and 201.
28. On June 25, 2008, the OCD conducted a compliance conference with Manhattan.

II. STATEMENTS & ADDITIONAL INFORMATION PROVIDED BY MANHATTAN

29. At the compliance conference conducted on June 25, 2008, Manhattan provided the following information:
 - a. Manhattan hired a contractor to close the pit at the Caudill 33 #001. The contractor filed the C-144 in November 2007; Manhattan understood that the C-144 was a subsequent report indicating that the pit was closed, and Manhattan received invoices from the contractor for the pit closure. Manhattan later learned that the pit closure had not been completed.
 - b. Manhattan has taken action to close the pit. As of June 23, 2008, closure was complete except for applying additional dirt and leveling the location.
 - c. Manhattan has now filed the C-105 completion report and the required logs.
 - d. Manhattan is reviewing the wellbore of the Caudill 33 #001 to determine whether the well can be produced; Manhattan is also considering transferring the well to another operator for use as a disposal well.
 - e. Manhattan denies that its violation of Rules 50.F(1), 117 and 1105 was "willful" in the sense of a specific intent to violate the law.

III. CONCLUSIONS OF THE OCD

30. The OCD has jurisdiction over the parties and subject matter in this proceeding.
31. Manhattan is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
32. Manhattan is subject to civil penalties under NMSA 1978, § 70-2-31(A) for violating Rules 50.F(1), 117 and 1105 as to the Caudill 33 #1.

33. Manhattan is in violation of Rule 201 as to the Caudill 33 #1, but will not be assessed penalties for this violation at this time.

IV. ORDER & CIVIL PENALTY ASSESSMENT

34. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against Manhattan totaling \$10,000 (ten thousand dollars) for the violation of Rules 50.F(1), 117 and 1105 as to the Caudill 33#1.

35. The civil penalty shall be paid at the time Manhattan executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the New Mexico Oil Conservation Division, Attention: Director, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.

36. Manhattan agrees to complete the closure of the Caudill 33 #001 by July 31, 2008. *PIT EP*

37. Manhattan agrees to transfer the Caudill ~~#3~~ *#33 GPMF* #001 to another operator or return the Caudill 33 #1 to compliance with Rule 201 by September 30, 2008. Manhattan understands that it may return the Caudill 33 #001 to compliance by returning the well to production or other OCD-approved beneficial use, plugging the well in accordance with OCD rules, or placing the well on approved temporary abandonment status pursuant to OCD rules.

38. By signing this Order, Manhattan expressly:

- a. acknowledges the authority of the OCD to render the above "Findings & Determinations," "Conclusions" and "Order & Civil Penalty Assessment";
- b. agrees to comply with the Order, specifically as articulated in Section "IV," Paragraphs 34-37, above;
- c. waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order;
- d. agrees that if it fails to comply with this Order, the Order may be enforced by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act;

39. Nothing in this Order relieves Manhattan of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico this 25th day of July 2008.

By: *[Signature]*

Mark Fesmire, P.E.
Director, Oil Conservation Division

ACCEPTANCE

MANHATTAN PETROLEUM, INC. (OGRID 226563) hereby accepts the foregoing Order, and agrees to all of the terms and provisions as set forth in the Order.

By: 
Title: VP OPERATIONS
Date: 7/23/08