

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

**ACO 169**

**IN THE MATTER OF HIGH PLAINS  
PETROLEUM CORPORATION,**

**Respondent.**

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

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, §§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 **HIGH PLAINS PETROLEUM CORPORATION ("High Plains")** directing compliance with the Act and OCD rules, and assessing a penalty for violations of the Act and OCD rules.

**FINDINGS**

**Parties:**

1. The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
2. High Plains is a foreign for Profit Corporation doing business in New Mexico, SCC # 1059450. High Plains is an active entity, with a principal and mailing address at 3860 Carlock Drive, Boulder, Colorado 80305. Its registered agent for service of process in New Mexico is CT Corporation System, 123 East Marcy, Santa Fe, New Mexico 87501. High Plains has been assigned OGRID # 10459.

**Investigation:**

3. High Plains is the operator of record for the San Isidro 16-8, API # 30-043-21014, located in Unit Letter M, Section 16, Township 20 North, Range 03 West, Sandoval County, New Mexico. The San Isidro 16-8 is on a federal lease.
4. On Friday December 19, 2006, OCD Deputy Oil and Gas Inspector Karen Sharp received a spud and surface casing report from the Bureau of Land Management (hereinafter, "BLM") submitted by High Plains for the San Isidro 16-8 well.
5. A subsequent OCD investigation found the following:
  - a. Upon checking the well records, Inspector Sharp found that no application for a drilling pit permit had been submitted or approved.
  - b. On January 4, 2007, Deputy Oil and Gas Inspectors Brandon Powell and Shelly

Cowden inspected the site and saw that there was indeed a pit on location. The pit was lined and fenced, and was in use.

c. There was no API number on the well sign at the site.

d. OCD Rule 50.A [19.15.2.50.A NMAC] prohibits the discharge into or construction of any pit or below-grade tank absent possession of a permit issued by the OCD, unless otherwise provided by OCD rules or the OCD grants an exemption. OCD Rule 50 has been in effect since April 15, 2004.

e. OCD Rule 103.F [19.15.2.103.F NMAC] requires well signs to show the number of the well, name of the property, name of the operator, location of the well by footage (quarter-quarter section, township and range or Unit Letter can be substituted for the quarter-quarter section); and the API number. The requirement that well signs include the API number has been in effect since 1997.

6. As a result of its investigation, on January 04, 2007, OCD issued Notice of Violation (3-07-02) to High Plains, alleging two violations of OCD Rule 50.A (constructing a pit without a permit and discharging into a pit without a permit) and a violation of OCD Rule 103.F (failure to post the API number on the well sign).

7. Notice of Violation (3-07-02) proposed a \$2,000 civil penalty and a definite commitment to corrective action. The OCD based the penalty on two violations of OCD Rule 50.A; the OCD did not propose a penalty for the violation of OCD Rule 103.F, but warned High Plains that future violations may result in penalties.

8. NMSA 1978, §70-2-31(A) provides, in relevant part,

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.

9. As used in the Oil and Gas Act, "person" includes corporations. NMSA 1978, §70-2-33(A).

#### **High Plain's Position on the Notice of Violation.**

10. Through e-mail and at the Administrative Conference held on February 8, 2007, High Plains presented the following in response to NOV (3-07-02):

a. "When High Plains went into business in 1978, we obtained a booklet of the Rules and Regulations, and we have made every effort to comply with those rules and regulations." February 7, 2007 E-mail from John Somers.

JAT  
b. **“High Plains did not knowingly or willfully violate either the OCD rule requiring the API number on the sign at the wellsite, or the OCD rule requiring a pit permit. That language is offensive.”** February 12, 2007 E-mail from John Somers (emphasis added by Somers).

c. “San Isidro 16-8 is on a federal oil and gas lease, and High Plains complied fully with the BLM's requirements, as specified in the approved APD. Only the API number was omitted. Everything else was on the sign, the operator's name, lease serial number, well number and location of the well.” February 12, 2007 E-mail from John Somers.

d. “[T]he pit is lined and fenced, so **NO HARM WAS DONE BY HIGH PLAINS' UNKNOWING FAILURE TO OBTAIN A PIT PERMIT FROM THE OCD.**” February 12, 2007 E-mail from John Somers (emphasis added by Somers).

e. **THE RULE VIOLATIONS ARE NOT SERIOUS**, so the fine of two thousand dollars (\$2000) is not warranted. It is excessive. High Plains should have been made aware of the requirements and given the opportunity to correct those unintentional violations, **LIKE THE BLM DOES.**” February 12, 2007 E-mail from John Somers (emphasis added by Somers).

f. **“Treating operators like guilty criminals is going to discourage small operators, like High Plains, from doing business in New Mexico.** Furthermore, a fine of two thousand dollars (\$2000) has almost no effect on Conoco, BP or Merrion Oil & Gas, but it hurts a father and son operation, like us. Such punitive action, offensive treatment and threatening to force a discovery well to be plugged are inappropriate ways to handle these matters.” February 12, 2007 E-mail from John Somers (emphasis added by Somers).

g. “High Plains has already applied for a pit permit; the API number will be added to the sign and High Plains will pay the fine and abide by those rules now that we are aware of them.” February 7, 2007 E-mail from John Somers.

h. Although High Plains disagrees that it “knowingly and willfully” violated any OCD rules, it agrees to pay the \$2,000 penalty rather than contest the issues in a public hearing and in possible litigation.

## II. CONCLUSIONS

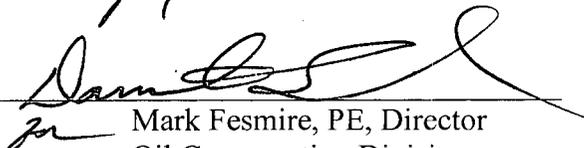
1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. High Plains is a person as defined by NMSA 1978, §70-2-33(A) that may be assessed civil penalties under NMSA 1978, §70-2-31(A).
3. High Plains has agreed to pay \$2,000 to resolve the issues raised in Notice of Violation (3-07-02).

### III. ORDER AND CIVIL PENALTY

1. The OCD assesses, and High Plains agrees to pay, a penalty of \$2,000 for the alleged violations of OCD Rule 50.A (constructing a pit without a permit and discharging into a pit without a permit). No penalty is assessed for the alleged violation of OCD Rule 103.F (failure to post the API number on the well sign). However, this is High Plains' second documented OCD Rule 103.F violation. It is admonished that future violations may result in penalties.
2. The \$2,000 civil penalty shall be paid at the time High Plains executes this Order. Payment shall be made by check payable to the "New Mexico Oil Conservation Division," mailed or hand-delivered to the EMNRD-OCD, Attn: Director, 1220 South St. Francis, Drive, Santa Fe, NM 87505.
3. High Plains shall close the drilling pit at the San Isidro 16-8 following OCD guidelines and rules.
4. By signing this order, High Plains expressly:
  - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - b. agrees to comply with Ordering paragraphs 2 and 3;
  - 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; and
  - 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 (NMSA 1978, §§70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico this 12<sup>th</sup> day of July 2007.

By: \_\_\_\_\_

  
Mark Fesmire, PE, Director  
Oil Conservation Division

### ACCEPTANCE

**High Plains Petroleum Corporation** hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth therein.

HIGH PLAINS PETROLEUM  
CORPORATION

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

  
President  
July 3, 2007