

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

2006 JUL 3 PM 3 07

NMOCD-131

**IN THE MATTER OF MOUNTAIN STATES
PETROLEUM CORP.**

Respondent.

AGREED COMPLIANCE ORDER

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended (hereinafter, "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 (hereinafter, "OCD") issues this Order to MOUNTAIN STATES PETROLEUM CORP. (hereinafter "MSP") directing compliance with the Act and OCD Rules, and assessing a penalty for violations of the Act and OCD Rules.

I. FINDINGS

- 1) The OCD is the state division charged with administration and enforcement of the Act and OCD Rules.
- 2) MSP is a domestic for profit corporation doing business in New Mexico, registered with the Public Regulatory Commission Secretary of the State, under number 0626556. MSP is an active entity with a principal address at 8101 W 34th Street, Amarillo, Texas 79121. Its registered agent for service of process in New Mexico is C T Corporation System 123 E. Marcy Street, Santa Fe, New Mexico 87501. Mountain States Petroleum Corp.'s business address is 3001 Knox St., Suite 403, Dallas, Texas 75025-7304. MSP's OGRID is 15346.
- 3) MSP operates the Hospah Sand Unit #58, Unit Letter "O", Section 36, Township 18 North, Range 09 West, API # 30-031-20115, McKinley County, New Mexico.
- 4) On Tuesday February 14, 2006, OCD Deputy Oil and Gas Inspector Kelly Roberts visited the MSP Hospah Sand Unit #58. Mr. Roberts found an earthen pit approximately five feet by ten feet near the wellhead. The pit had been overrun by oil; there was staining around the pit on all sides. Oil ran east from the pit for approximately twenty-five (25) feet, then turned south with the contour of the land to a point where it entered a small watercourse, approximately two (2) feet in width. Oil then ran south approximately 1,200 feet in the bed of the watercourse to a point where it entered a man-made pond. The pond is approximately 250 feet across, and is located directly north of the Hospah Sand Unit # 56.
- 5) A subsequent OCD investigation found the following:

- a. MSP had not notified the OCD of the release.
- b. On February 15, 2006, OCD Deputy Oil and Gas Inspector Denny Foust spoke with Denny Migl of MSP, over the telephone. Mr. Migl admitted that he and Jay Miller, a contractor, had toured the field on February 9, 2006, which was when he became aware of the release. MSP planned to complete remediation over the weekend.
- c. OCD Rule 116.B(1) [19.15.3.116.B(1)(b)(ii) NMAC] requires that a major release be reported to the OCD by giving "both immediate verbal notice and timely written notice." A major release is defined by the Rule to be an unauthorized release in excess of twenty (25) barrels or of any volume that will reach a watercourse or may, with reasonable probability, endanger public health or damage property or the environment.
- d. OCD Rule 116.C(1) defines immediate verbal notification of a major spill to be a report of the spill within twenty-four (24) hours of discovery to the Division District Office for the area within which the release takes place. Pursuant to OCD Rule 116.C(2), timely written notice to the OCD must be made within fifteen (15) days from discovery of the release.
- e. OCD Rule 116.D requires the operator complete division approved corrective action for releases which endanger public health or the environment. Releases will be addressed in accordance with a remediation plan submitted to and approved by the division or with an abatement plan submitted in accordance with Section 19 of 19.15.1 NMAC."
- f. OCD Rule 13.B requires that "operators ... shall at all times conduct their operations in or related to the drilling, equipping, operating, producing, plugging and abandonment of oil, gas, injection, disposal, and storage wells or other facilities in a manner that will prevent waste of oil and gas, the contamination of fresh waters"
- g. MSP violated Rule 116.B(1)(b)(ii) by failing to provide immediate notification of the release within 24 hours; the violation continued from February 9, 2006 through February 14, 2006.
- h. MSP violated Rule 116.B(1)(b)(ii) a second time by failing to provide timely written notification of the release within fifteen days.
- i. On March 1, 2006, Deputy Inspector Foust visited the site with Mr. Migl and Mr. Miller. Oil was still standing in pools at several points in the waterway.
- g. Deputy Inspector Foust again returned to the site on March 7, 2006. The site still had not been remediated, nor was any active field remediation in progress.
- h. MSP violated OCD Rule 116.D two (2) times by failing to submit a remediation plan and by failing to timely remediate the site in accordance with an OCD approved plan.

- i. MSP's release of oil into a tributary of the Sandoval Arroyo is an OCD Rule 13.B violation. This violation is further aggravated by MSP allowing visible oil to pool in the watercourse for a minimum of eight days, from February 14, 2006 to March 1, 2006, inclusive. Even as late as March 7, 2006, small volumes of oil remain standing in the Sandoval Arroyo.
 - j. MSP knowingly and willfully failed to verbally notify the OCD of the unauthorized release and provide timely written notification of the spill, two (2) OCD Rule 116.B violations. It then failed to submit a remediation plan or complete remediation in accordance with an approved plan, two (2) OCD Rule 116.D violations. It twice violated OCD Rule 13.B by wasting oil and contaminating fresh water.
 - k. As a result of its investigation, the OCD issued Notice of Violation (3-06-20) to MSP, alleging violations of OCD Rules 116.B and D and OCD Rule 13.B.
- 6) At the Administrative Conference on this matter, MSP presented the following:
- a. In response to the Notice of Violation sent to MSP, the company does not wish to contest the fine that was assessed for Civil Penalties in the amount of Six Thousand Dollars (\$6,000.00).
 - b. MSP had an internal failure of communication leading to the violations.
 - c. MSP has changed their personnel structure to facilitate communication and oversight.

II. CONCLUSION

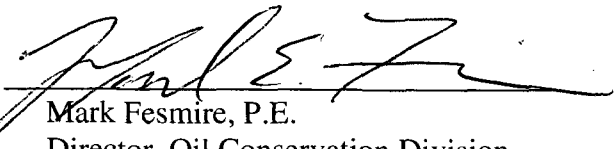
- 1) The OCD has jurisdiction over the parties and subject matter in this proceeding.
- 2) MSP is a person as defined by NMSA 1978, § 70-2-33(A) that may be subject to civil penalties under NMSA 1978, §70-2-31(A).
- 3) MSP is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Hospah Sand Unit #58 for knowing and willful violation of OCD Rule 13.B. and Rule 116.B.

III. ORDER AND CIVIL PENALTY

- 1) Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty against MSP totaling **Six Thousand Dollars (\$6,000.00)**. This penalty is based on two (2) violations of Rule 116.B, two (2) violations of OCD Rule 116.D, and two (2) violations of OCD Rule 13.B.
- 1) The civil penalty shall be paid at the time MSP 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.

- 2) MSP has submitted a release report and is taking action to recover oil and remediate the site, which shall be completed within a reasonable time.
- 3) By signing this Order, MSP expressly:
 - a. acknowledges the correctness of the Findings and Conclusions set forth in this Order;
 - b. agrees to comply with Ordering paragraph 1, 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;
 - 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;
- 5) Nothing in this Order relieves MSP of its liability should its operations fail to adequately investigate and remediate contamination that poses a threat to ground water, surface water, human health or the environment. In addition, nothing in this Order relieves MSP of its responsibility for compliance with any other federal, state or local laws and/or regulations.

Done at Santa Fe, New Mexico, this 6th day of July 2006.

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

Signatures Continued on Page 5

ACCEPTANCE

MOUNTAIN STATES PETROLEUM CORP. hereby accepts the foregoing
Order, and agrees to all of the terms and provisions set forth in the Order.

MOUNTAIN STATES PETROLEUM CORP.

By: Wayne McPherson

Title: C.O.O.

Date: 6-23-06