

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

NMOCD--136

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


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 regulations 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

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 80355. 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.
3. High Plains is the operator of the Saladita State #1, Unit Letter M, Section 36, Township 18 North, Range 05 West, API # 30-031-21067, McKinley County, New Mexico
4. After a spud notice was reported on February 28, 2006 to the OCD, on Monday, March 6, 2006, OCD Deputy Oil and Gas Inspector, Monica Kuehling went to the High Plains Saladita State #1 well to inspect the site. Stewart Brothers Drilling Company of Milan was the drilling contractor on the well. Inspector Kuehling found that no well sign was posted, there was no fence around the pit, and the driller was unable to produce a copy of a permit to drill on the site. Neither was there a company representative or rig pusher on site. Inspector Kuehling advised the rig crew that the site was not in compliance with OCD rules, and that a well sign and copy of the permit to drill must be posted, and that a fence around the drilling pit needed to be erected. The fencing was crucial, as there is evidence of livestock in the area.

5. The following day, Tuesday, March 7, 2006, John Somers, High Plains representative, appeared to be aware of the Rules. He advised Inspector Kuehling that a well sign had been put up and the permit to drill was on location. He advised that a fence around the drill pit would be erected as soon as the blow pit could be dug out.
6. A subsequent OCD investigation found the following:
 - a. The OCD Aztec District Office approved a permit to drill with the pit permit on September 6, 2005.
 - b. The Saladita State #1 well was spud at 4 a.m. on Friday March 3, 2006, as reported by High Plains' representative, John Somers.
 - c. OCD Rule 50.C(2)(f) [19.15.2.50 NMAC] requires that "[a]ll pits shall be fenced or enclosed to prevent access by livestock, and fences shall be maintained in good repair."
 - d. High Plains knowingly and willfully violated OCD Rule 50.C(2)(f) by failing to have the drilling pit fenced to prevent access by livestock. High Plains disagrees that it knowingly and willfully violated the Rule. See paragraph 8c.
 - e. OCD Rule 102.E [19.15.3.102.E] requires the operator to "keep a copy of the approved form C-101 at the well site during drilling."
 - f.  High Plains Personnel on site failed to provide Inspector Kuehling a copy of the approved Form C-101.
 - g. OCD Rule 103.A, B [1.15.3.103.A, B NMAC] requires that wells be identified by a sign "posted on the derrick or not more than 20 feet from the well," which sign "shall remain in place until the well is plugged and abandoned and the related facilities are closed."
 - h. High Plains knowingly and willfully violated Rule 103.A by failing to have a well sign on site. High Plains disagrees it knowingly and willfully violated this Rule. See paragraph 8b.
7. As a result of its investigation, on April 13, 2006, the OCD issued **Notice of Violation (3-06-25)** to High Plains alleging one violation of OCD Rule 50.C(2)(f), one violation of OCD Rule 102.E and one violation of OCD Rule 103.A and B.
8. At the Administrative Conference on this matter, High Plains presented the following:
 - a. From the time the Stewart Brothers' rig moved on site, a copy of the approved C-101 was posted in a large delivery truck, used as the doghouse, backed up to the rig floor.

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- b. The ~~High Plains~~ driller is Spanish speaking and did not understand Inspector Kuehling's request to see the C-101, which was posted in the doghouse. If Inspector Kuehling had walked into the open doghouse, she would have seen it posted on the clipboard hanging behind the desk.
 - c. At the time of the inspection High Plains personnel were in Cuba picking up a well sign. The well sign was installed later in the day of March 6, 2006.
 - d. FW Construction failed to dig a blow pit at the location. As a result, the mud pits were being guarded and left unfenced until a blow pit was constructed. As soon as the blow pit was dug and lined, the pits were fenced.

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 subject to civil penalties under NMSA 1978, §70-2-31(A).
3. High Plains is subject to civil penalties under NMSA 1978, § 70-2-31(A) at the Saladita State #1 for one violation of OCD Rule 50.C(2)(f). The OCD will not assess a penalty for violation of OCD Rule 103.A. High Plains disagrees that it violated these OCD rules.

III. ORDER AND CIVIL PENALTY

1. Taking into account both aggravating and mitigating factors, the OCD hereby assesses a civil penalty totaling **One Thousand Dollars (\$1,000.00)** against High Plains for one violation of OCD Rule 50.C(2)(f) (leaving the pit without a fence).
2. The civil penalty shall be paid within sixty days of receipt of this Order. Payment shall be made by certified or cashier's check made 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.
3. High Plains will close the drilling pit following OCD guidelines and rules.
4. High Plains shall instruct their personnel and contractors to provide a copy of the C-101 upon request from an OCD inspector.
5. 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 1, 2, 3 and 4;
 - 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, Sections 70-2-1 through 70-2-38, as amended).

Done at Santa Fe, New Mexico this 6th day of ~~July~~^{September} 2006.

By: Mark Fesmire
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: John B. Somers II
Title: President
Date: August 19, 2006