

**RAILROAD COMMISSION OF TEXAS  
OFFICE OF GENERAL COUNSEL  
HEARINGS SECTION**

**OIL AND GAS DOCKET NO. 08-0240042**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DEG ENERGY, INC. (210180), AS TO THE STATE-HARRAL LEASE, WELL NO. 1 (DRILLING PERMIT NO. 382288), HOKIT (GRAYBURG) FIELD, PECOS COUNTY, TEXAS**

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**FINAL ORDER**

The Commission finds that after statutory notice the captioned enforcement proceeding was heard by the examiner on October 4, 2007, and that the respondent, DEG Energy, Inc. (210180), failed to appear or respond to the Notice of Hearing. Pursuant to § 1.49 of the Commission's General Rules of Practice and Procedure [Tex. R. R. Comm'n, 16 TEX. ADMIN. CODE § 1.49] and after being duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas, the Commission makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

1. DEG Energy, Inc. (210180), ("Respondent") was given Notice of Hearing by certified mail, addressed to the most recent P-5 address on the Form P-5 Organization Report, which was returned to the Commission marked "unclaimed."
2. The returned certified receipt containing the Original Complaint and the Notice of Hearing mailed to Respondent's most recent P-5 address was returned to the Commission marked "unclaimed" on September 18, 2007. The certified receipt has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On August 24, 2004, Respondent, a Corporation, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Wilfredo G. Molinar; President.
4. Wilfredo G. Molinar, was a person in a position of ownership or control of respondent, as defined by Texas Natural Resources Code Section 91.114, during the time period of the violations of Commission rules committed by respondent.

5. The violations of Commission rules committed by respondent are related to safety and the control of pollution.
6. Respondent designated itself to the Commission as the operator of Well No. 1 (Drilling Permit No. 382288) on the State-Harral Lease ("subject well"/"subject lease") by filing a Form W-1 (Application to Drill, Plug Back, Deepen, or Re-Enter) with the Commission on December 9, 1990.
7. According to Commission records the Respondent's Form P-5 (Organization Report) is inactive. Respondent had a \$25,000.00 Letter of Credit as its financial assurance at the time of its last P-5 renewal.
8. The subject well has never produced.
9. The subject well was completed with tubing prior to the first District Office inspection on May 24, 2002, but was not properly plugged in accordance with, and was not otherwise in compliance with, Statewide Rule 14 prior to August 16, 2005.
10. Usable quality groundwater in the area could have been contaminated by migrations or discharges of saltwater and other oil and gas wastes from the subject well. Unplugged wellbores constitute a cognizable threat to the public health and safety because of the probability of pollution.
11. Well No. 1 (Drilling Permit No. 382288) on the State-Harral Lease was plugged on August 16, 2005.
12. On four separate occasions between July 25, 2002, and July 27, 2004, the District Office sent Respondent notices requesting voluntary compliance with Statewide Rule 14.
13. Well No. 1 (Drilling Permit No. 382288) on the State-Harral Lease was out of compliance with Statewide Rule 14 from at least May 24, 2002, until August 16, 2005.
14. Commission district office inspections were conducted on May 24, 2002, July 5, 2002, August 12, 2002, June 28, 2004 and August 31, 2004 on the State-Harral Lease. Well No. 1 (Drilling Permit No. 382288) had been completed with tubing, but Respondent had not filed the required completion report.
15. On September 17, 2007, Respondent filed a Form W-3 (Plugging Report) with the Commission.
16. The Respondent did not demonstrate good faith since it failed to timely plug or otherwise place the subject lease and subject well in compliance after being notified of the violations by the District Office and failed to appear at the hearing to explain its inaction.

## CONCLUSIONS OF LAW

1. Proper notice was issued by the Railroad Commission to respondent and to all other appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed or have occurred.
3. Respondent was in violation of Commission Statewide Rules 14(b)(2) and 16(a).
4. Respondent was responsible for maintaining the subject lease in compliance with Statewide Rule 16(a), which requires that the owner or operator of an oil, gas or geothermal resource well, within thirty (30) days after the completion of such well or the plugging of such well, if the well is a dry hole, shall file with the Commission the appropriate completion or plugging report.
5. Respondent was responsible for maintaining the subject lease and subject well in compliance with all applicable Commission rules according to Statewide Rules 14, 58, and 79 and Chapters 89 and 91 of the Texas Natural Resources Code.
6. The documented violations committed by the respondent constitute acts deemed serious, a hazard to the public health, and demonstrate a lack of good faith pursuant to TEX. NAT. RES. CODE ANN. §81.0531(c).
7. As a person in a position of ownership or control of respondent at the time respondent violated Commission rules related to safety and the control of pollution, Wilfredo G. Molinar, and any other organization in which he may hold a position of ownership or control, shall be subject to the restrictions of Texas Natural Resource Code Section 91.114(a)(2) for a period of no more than seven years from the date the order entered in this matter becomes final, or until the conditions that constituted the violations herein are corrected or are being corrected in accordance with a schedule to which the Commission and the organization have agreed; and all administrative, civil, and criminal penalties and all cleanup and plugging costs incurred by the State relating to those conditions are paid or are being paid in accordance with a schedule to which the Commission and the organization have agreed, whichever is earlier.

**IT IS ORDERED THAT** within 30 days from the day immediately following the date this order becomes final:

1. DEG Energy, Inc. (210180), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE § 2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

Noncompliance with the provisions of this order is subject to enforcement by the Attorney General and subject to civil penalties of up to \$10,000.00 per day per violation.

Done this 12<sup>th</sup> day of February 2008.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated February 12, 2008)

JD/sa