August 22, 2002

OIL AND GAS DOCKET NO. 10-0227703

ENFORCEMENT ACTION AGAINST DYNE OIL & GAS, INC. FOR VIOLATIONS OF STATEWIDE RULES ON THE OATES (00981) LEASE, WELL NOS. 1, 4, 6, 9D, 10D, 11, 12, 16, 17, 18, AND 19, PANHANDLE HUTCHISON COUNTY FIELD, HUTCHISON COUNTY, TEXAS.

APPEARANCES:

FOR MOVANT:	**MOVANT:**
Scott Holter, Staff Attorney	Railroad Commission, Enforcement Section
FOR RESPONDENT:	**RESPONDENT:**
Lloyd Muennick, Attorney	Dyne Oil & Gas, Inc.
Greg Hill, President	" "
Billy Gilman, Petroleum Engineer	" "

AMENDED PROPOSAL FOR DECISION

PROCEDURAL HISTORY

HEARING HELD:	July 19, 2001
HEARD BY:	Scott Petry, Hearings Examiner
ADDITIONAL HEARING HELD:	January 28, 2002
ADDITIONAL HEARING HEARD BY:	Mark Helmueller, Hearings Examiner
RECORD CLOSED:	February 19, 2002
PROPOSAL FOR DECISION PREPARED BY:	Mark Helmueller, Hearings Examiner
PROPOSAL FOR DECISION CIRCULATED:	July 22, 2002
AMENDED PROPOSAL FOR DECISION CIRCULATED:	August 22, 2002
CURRENT STATUS:	Protested

STATEMENT OF THE CASE

This docket is a Commission-called hearing on the recommendation of the District Office to determine the following:

1. Whether the respondent, should be required to plug or otherwise place in compliance with Statewide Rules 13 and 14, the Oates (00981) Lease, Well Nos. 1, 4, 6, 9D, 10D, 11, 12, 16, 17, 18 and 19, Panhandle Hutchinson County Field, Hutchinson County, Texas;

2. Whether the respondent has violated provisions of Title 3, Oil and Gas, Subtitles A, B, and C, Texas Natural Resources Code, Chapter 27 of the Texas Water Code, and Commission rules and laws pertaining to safety or prevention or control of pollution by failing to comply with said statutes and Statewide Rules 13 and 14;

3. Whether the respondent should be assessed administrative penalties of not more than $10,000.00 per day for each offense committed regarding said lease and wells;

4. Whether any violations should be referred to the Office of the Attorney General for further civil action pursuant to Tex. Nat. Res. Code Ann. § 81.0534.

INTRODUCTION

Dyne Oil & Gas, Inc. (hereinafter "Dyne") appeared through its attorney and offered evidence at all proceedings. Scott Holter, Staff Attorney, appeared representing the Railroad Commission of Texas, Enforcement Section. The Enforcement hearing files were admitted into evidence. The record was initially left open until September 15, 2001.

A request to file additional evidence concerning respondent's organization status was submitted by Enforcement on December 3, 2001. On January 2, 2002, respondent submitted exhibits which asserted that any violations were brought into compliance through the transfer of leases to another operator. Based on the additional exhibits filed, it was determined that an additional hearing was required. The hearing was held on January 28, 2002.

In its closing argument, Enforcement recommended an administrative penalty of $34,250.00. This penalty breaks down as follows: $22,000.00 for 11 violations of Rule 14(b)(2) at $2,000.00 per violation; $1,500.00 for a single violation of Rule 14(b)(2)(E) which was resolved prior to the July 2001 hearing; $750.00 for a single violation of Rule 13(b)(1)(B) which was resolved prior to the July 2001 hearing; and $10,000.00 in enhanced penalties based on the entry of Final Orders in Oil & Gas Docket Nos. 10-0223724 and 10-0224181. Dyne argued that no administrative penalty should be imposed for any of the violations.

The examiner believes that the short period of time the wells were technically not in compliance with Rule 14, the continued good faith attempts by Dyne to bring the wells into

compliance, and an evidentiary admission made by the Commission that the wells did not pose a pollution threat, warrant an administrative penalty of $1,000.00 for the 11 violations of Rule 14(b)(2), and warrant an administrative penalty of $750.00 for the single violation of Rule 14(b)(2)(E). The examiner agrees with the recommended penalty of $1,000 for the single violation of Rule 13(b)(1)(B). The total recommended administrative penalty is $12,500.00.

PROCEDURAL SUMMARY

The complaint in this matter was served on Dyne on May 2, 2001. This complaint sought administrative penalties of $49,000.00 for: one violation of Rule 13(b)(1)(B) (failure to monitor wellhead control) at $1,000.00; eleven violations of Rule 14(b)(2) at $2,000.00 per violation; eight violations of Rule 14(b)(2)(E) at $2,000.00 per violation; and an enhancement of $10,000.00 based on Final Orders entered in two other Enforcement proceedings, Oil & Gas Docket Nos.10-0223724 and 10-0224181 which together assessed $74,000.00 in penalties. The order in Docket No. 10-0224181 became final on November 5, 2000 after Dyne did not file a request for rehearing. The order in Docket No. 10-0223724 became final on December 5, 2000 when the Commission denied Dyne's request for rehearing.

An amended complaint was served on May 16, 2001 which dropped seven of the violations of Rule 14(b)(2)(E). This resulted in a revised total requested administrative penalty of $35,000.00. Additionally, Dyne's attorney served Interrogatories and Request for Admissions on the Commission. The Commission filed a timely response to the written discovery.

At the hearing, Dyne requested the examiner reinstate plugging extensions for the wells on the Oates Lease which were filed in September 2000. In support of this request, Dyne provided documentation that on June 28, 2001 it resolved the final orders in Docket Nos.10-0223724 and 10-0224181 by agreeing both to pay the $74,000.00 administrative penalty and to plug Well No. 6 on the Gray Lease within 45 days. Based on the settlement agreement, the documentation of a continuing right to operate the Oates Lease, and the payment of $23,500.00 in required fees, the plugging extensions filed by Dyne were reinstated for the Oates Lease effective July 20, 2001. Enforcement also recommended reducing the requested penalties for the violations of Rule 13(b)(1)(B) and Rule 14(b)(2)(E) because Dyne corrected the two violations. This reduced the total requested administrative penalty to $34,250.00.

On August 15, 2001, the examiner advised that the record would remain open through September 15, 2001 for the submission of additional exhibits and to take official notice of the evidence submitted in Oil and Gas Docket No. 10-0226332; *Enforcement Action Against Dyne Oil & Gas, Inc. for Violations of Statewide Rules on the Venture (01559) Lease, Well Nos. 1, 4, 5, 6, 7, 8, 9, 11 and 13, Panhandle Hutchison County Field, Hutchison County, Texas*. Neither party submitted any additional evidence.

Additionally, on August 15, 2001, Dyne was advised by Enforcement that it breached the settlement agreement because inspections revealed that it failed to plug Well No. 6 on the Gray Lease. Dyne's organization report was revoked on August 29, 2001.

On December 3, 2001, Enforcement submitted a request to late-file exhibits concerning

Dyne's organization status. On January 2, 2002, Dyne submitted correspondence claiming that it transferred the Oates Lease to another operator. The P-4 transferring the Oates Lease was approved by the Commission on December 7, 2002. It was determined that an additional hearing was necessary to obtain all relevant evidence. Following the hearing, the parties submitted written closing arguments on February 19, 2002.

A Proposal for Decision recommending Dyne pay an administrative penalty of $12,125.00 was circulated on July 22, 2002. Exceptions were filed by both parties and Dyne also filed a reply to the exceptions filed by Enforcement.

POSITIONS OF PARTIES

Commission records indicate that Dyne filed its initial organization report in February 1979. Dyne's organization report is scheduled to be renewed annually on April 1. On March 20, 2002, Dyne restored its organization status by: 1) submitting evidence that it plugged Well No. 6 on the Gray (01708) Lease as required by the Final Order entered in Docket No. 10-0224181; 2) transferring three leases to other operators to bring its total well count under 100; and 3) filing a letter of credit of $50,000.00 to meet its financial security requirements.

Commission records indicate that Dyne designated itself operator of the Oates (00981) Lease, by filing a Commission Form P-4 with an effective date of April 1, 1979. Commission records also confirm that Dyne last reported production on the Oates Lease in December 1998.

To establish that Well Nos. 1, 4, 6, 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease were not in compliance with Rule 14(b)(2), Enforcement submitted an inspection report from November 2, 2000 and Commission production records which show no production from January 1, 2000 to December 31, 2000. Enforcement argued that absent any plugging extensions, the wells on the Oates Lease were out of compliance beginning in January 2000.

Enforcement contends that the wells were out of compliance with Rule 14(b)(2) from January 1, 2000 through July 20, 2001 a period of 19 months. Enforcement argues that no plugging extension was granted until July 20, 2001 because Dyne did not pay the required fee, did not provide sufficient evidence to establish a good faith claim of a right to operate the Oates Lease, and did not resolve the existing prior orders. Enforcement acknowledges that Dyne submitted such evidence at the July 19, 2001 hearing. Enforcement also argues that the Oates Lease was not in compliance from September 1, 2001 through December 6, 2001. Enforcement acknowledges that the transfer of the Oates Lease to another operator was approved on December 7, 2001.

Dyne claims that the Commission deliberately delayed accepting the funds tendered for plugging extensions. Dyne contends that but for this refusal to accept the funds, the Oates Lease would have been in compliance with Commission rules at all times through September 1, 2001. Dyne also argues that Enforcement's refusal to lift a legal hold on the Venture Lease in August 2001 blocked its attempts to transfer the Oates Lease to a bonded operator. Accordingly, Dyne claims that the Oates Lease was not out of compliance with Rule 14(b)(2) from September 2000 through July 19, 2001 and from September 1, 2001 to December 3, 2001 when the wells were transferred.

Enforcement submitted inspection reports showing that Well No. 10D had tubing open to the atmosphere in violation of Rule 13(b)(1)(B). Commission records indicate that the well was out of compliance for approximately five months from November 2, 2000 through May 11, 2001. An inspection on June 22, 2001 found the tubing capped.

Enforcement submitted evidence that showed that the Dyne failed to comply with Rule 14(b)(2)(E) for Well No. 19 on the Oates Lease. Well No. 19 was originally completed on June 28, 1955, and an H-15 test was due on May 31, 2000. An H-15 test was completed on June 1, 2001. Accordingly, Well No. 19 was out of compliance for approximately one year.

Administrative Penalties

Enforcement contends that administrative penalties in the amount of $2,000.00 per well for each violation are appropriate based on the 22 month time period the leases were not in compliance with Rule 14(b)(2). Enforcement also notes that the violations were not resolved through Dyne restoring production or plugging the wells, but were corrected by transferring the leases to a new operator. Enforcement also requested an administrative penalty of $750.00 for the violation of Rule 13(b)(1)(B) that was resolved prior to the hearing. An administrative penalty of $1,500.00 was requested for the violation of Rule 14(b)(2)(E) that was resolved prior to the hearing. Finally, Enforcement argued that the prior Final Orders assessing administrative penalties of $74,000.00 warranted a $10,000.00 enhancement added to the administrative penalty in this docket, despite the fact that Dyne had agreed to pay the full amount of the $74,000.00 penalty in a settlement agreement with the Attorney General's Office.

Dyne argues that no penalties should be assessed, because all wells on which H-15 test have been performed are not a serious threat to health and safety where the tests show that the fluid levels in the well are below any fresh water level. Dyne contends that this argument is supported by the Commission's response to a request for admission. Dyne believes that the facts that the wells passed H-15 tests coupled with the admission that a well passing an H-15 test is not a serious threat to health and safety, together eliminate the statutory basis for assessing an administrative penalty.

APPLICABLE AUTHORITY

Rule 13(b)(1)(B) requires that wellhead assemblies be used to maintain surface control of the well. Wellhead assemblies are necessary to prevent fluids from being discharged from the wellbore onto the ground surface and to prevent any oil and gas waste in the wellbore from being displaced to the surface by potential influxes of water into the open wellbore.

Rule 14(b)(2) provides that the operator of a well must plug the well in accordance with Commission rules within one year after operations cease, unless an extension is granted.

Rule 14(b)(2)(E) requires the operator of any well that is more than 25 years old, and that

is inactive and subject to plugging provisions, to either plug or test the well to determine if it poses a potential threat of harm to natural resources.

The operator of a well must plug a well when required and in accordance with Commission rules. For Form P-4s filed prior to September 1, 1997, the operator, for purposes of plugging liability, is presumed to be the person who assumed responsibility for the physical operation and control of a well as shown on the approved Form P-4 designating that person as operator.

The primary controlling legal authority for assessing administrative penalties for violations of Commission Rules is Texas Natural Resources Code §81.0531 which provides in pertinent part:

> (a) If a person violates provisions of the title which pertain to safety or the prevention or control of pollution or the provisions of a rule, order, license, permit, or certificate which pertain to safety or the prevention or control of pollution and are issued under this title, the person may be assessed a civil penalty by the Commission.
>
> (b) The penalty may not exceed $10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.
>
> (c) In determining the amount of the penalty, the commission shall consider the permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged.

EXAMINER'S OPINION

Because both parties agree that all violations are now resolved, the only issue to be determined is the amount of any administrative penalty to be assessed against Dyne. Dyne argues that the only statutory basis allowing the Commission to impose an administrative penalty is the threat of pollution from the wells as a result of the violation of a Commission rule. Dyne argues that because the wells passed H-15 tests and the Commission admits that wells which pass an H-15 test do not pose a threat of pollution, that there is no statutory basis for imposing any administrative penalty for the violations of Rules 13 and 14.

Impact of Commission's Response admitting Request for Admission No. 5

Dyne argues that the Commission admitted that Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and

19 on the Oates Lease are not a serious threat to health and safety.[1] The evidentiary impact of the Commission's response admitting Request for Admission No. 5 is to preclude the trier of fact from considering any additional evidence submitted with respect to Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease. This evidentiary preclusion occurs by operation of law as specifically provided for in Texas Rules of Civil Procedure Rule 198.3, which reads in pertinent part:

> Any admission made by a party under this rule may be used solely in the pending action and not in any other proceeding. **A matter admitted under this rule is conclusively established as to the party making the admission** unless the court permits the party to withdraw or amend the admission. (Emphasis added)

Texas courts have confirmed that matters admitted in response to requests for admissions are considered conclusive as to the admitting party. *Bay Area Thoracic & Cardiovascular Surgical Ass'n v. Nathanson*, 908 S.W.2d 10, 11(Tex.App.--Houston [1st Dist.] 1995, no writ); *Cartwright v. Mbank Corpus Christi, N.A.*, 865 S.W.2d 546, 550 (Tex.App.--Corpus Christi 1993, writ denied).

Finally, Commission Rule of Practice and Procedure §1.84 indicates that requests for admissions are governed by the Rules of Civil Procedure. Accordingly, based on the statutory provisions, the existing case law and the Commission's own rules, the examiner is **precluded** from considering any evidence submitted on this issue.

Despite this seemingly fatal admission, it is the examiner's conclusion that under Texas Natural Resources Code §81.0531(a) the Commission may impose an administrative penalty for the violations of Rules 13 and 14. The statute provides the Commission with discretion to impose a civil penalty for a violation where either: 1) the rule was enacted to protect health and safety; or 2) the enabling statute was enacted to protect health and safety. Dyne incorrectly argues that it is the nature of the violation which determines whether the Commission is authorized to assess an administrative penalty. A proper interpretation of §81.0531(a) indicates that it is the nature of the statute or the rule which is the correct inquiry. It is undisputed that the Commission enacted Rules 13 and 14 to protect health and safety. Accordingly, the examiner finds that an administrative penalty in a reduced amount for these violations is appropriate despite the Commission's admission.

---

[1] Request for Admission No. 5 and the Commission's response reads as follows:

> Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates (00981) Lease that are each more that 25 years old is not evidence that they are a serious threat to health and safety if they have proper fluid levels according to RRC H-15 tests.
>
> RRC Response: Admit _X_ Deny ___
>
> The age of a well, by itself, is not sufficient evidence that such well is a serious threat to health and safety. Pursuant to 16 TEX. ADMIN. CODE §3.14(b)(2)(E) a Form H-15 test is required to determine whether the well poses a potential threat of harm to natural resources.

However, the admission does impact the amount of the administrative penalty to be assessed under §81.0531(c). Under §81.0531(c), the Commission must consider the severity of the violation in determining the amount of the administrative penalty. In its response to Request for Admission No. 5, the Commission admits that wells which have passed fluid level tests do not pose a serious threat to health and safety. All of the wells on the Oates Lease have passed fluid level tests. It therefore logically follows that all of the wells on the Oates Lease do not pose a serious threat to health and safety. Under §81.0531(c) this must be taken into consideration by the Commission in determining the amount of the administrative penalty. For this reason, and under additional grounds further enumerated below, the examiner recommends that the Commission impose an administrative penalty of $1,000.00 for the 11 violations of Rule 14(b)(2) and that the Commission impose a further administrative penalty of $750.00 for the single violation of Rule 14(b)(2)(E).

Time Period Out of Compliance

An issue is also raised in this case concerning the time period the wells were out of compliance with Rule 14(b)(2) in light of the Commission's approval of plugging extensions for the 11 wells in July 2001. These plugging extensions were backdated by the Commission to September 1, 2000 and expired on August 31, 2001. Yet despite the Commission's backdating of the plugging extensions, Enforcement argues that the wells should be treated as out of compliance for 22 months from September 1, 2000 through July 20, 2001, and from September 1, 2001 through December 6, 2001 when the lease was transferred.

Despite Dyne's assertions, there were no plugging extensions in effect for the wells on the Oates Lease for the 8 month period from January 1, 2000 through September 1, 2000. Commission records show that a W-1X was filed by Dyne, but the Commission denied the application due to Dyne's failure to provide H-15 tests for all of the wells. Accordingly, the Oates Lease was out of compliance with Rule 14(b)(2) for at least 8 months.

With respect to the time period between September, 1, 2000 and July 19, 2001, Enforcement claims that because no plugging extension had been approved, that the Oates Lease should be treated as out of compliance, despite the subsequent backdating of the extensions to September 1, 2000. The examiner disagrees with this interpretation. If the plugging extensions were not valid until July 20, 2001, then absent any other considerations, they should have been treated as expiring on July 20, 2002. If the plugging extensions are backdated to when they were filed, it should cure the noncompliance of the wells for the period of September 1, 2000 through August 31, 2001. Because the Commission backdated the extensions to September 1, 2000, it is inappropriate to argue that the wells were out of compliance from September 1, 2000 through July 20, 2001 as a justification for the administrative penalty recommended by Enforcement.

Finally, Dyne claims that Enforcement's refusal to approve an attempted transfer of the Venture Lease in August 2001, prevented it from bringing the Oates Lease into compliance. Essentially, Dyne claims that the deal transferring both the Oates Lease and the Venture Lease to the current operator was an all or nothing deal, and that it could not transfer the Oates Lease independently. No evidence was presented to support this claim, and the examiner therefore finds that no action by the Enforcement Staff attorney with respect to the Venture Lease precluded Dyne

from transferring the Oates Lease. Accordingly, the Oates Lease was not in compliance with Rule 14(b)(2) from September 1, 2001 through December 6, 2001.

Further grounds for an administrative penalty of $1,000.00 for each violation of Rule 14(b)(2), and for not imposing a $10,000.00 enhancement of the administrative penalty for the entry of the two prior orders include: 1) Dyne resolved the outstanding Final Orders in June 2001 by agreeing to a payout agreement for $74,000.00 in administrative penalties; 2) Dyne plugged an inactive well as ordered by the Commission; and 3) Dyne reorganized its operations and obtained blanket financial security which allowed it to renew its Organization Report. There was some delay in completing these tasks, but ultimately Dyne did follow through on all of its representations. Coupled with the Commission's admission that wells on the Oates Lease which passed fluid level tests did not pose a serious threat, these factors support an administrative penalty of $1,000.00 for each violation of Rule 14(b)(2). Additionally, these factors weigh against imposing a $10,000.00 enhancement of the administrative penalty for the prior violations.

CONCLUSION

In conclusion, the examiner recommends that an administrative penalty of $12,500.00 be assessed for the violations on Oates Lease, despite the fact that the Commission admitted that Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease are not a serious threat to health and safety. The total administrative penalty for 11 violations of Rule 14(b)(2) on the Oates Lease at $1,000.00 per violation is $11,000.00. The examiner recommends administrative penalties of $750.00 for the violation of Rule 14(b)(2)(E) and $750.00 for the violation of Rule 13(b)(1)(B). Finally, the examiner recommends that no enhancement penalty be added to the Oates Docket.

Based on the record in this docket, the examiner recommends adoption of the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent Dyne Oil & Gas, Inc. ("Dyne") was given at least 10 days notice of the proceeding by certified, first-class mail, addressed to its most recent Form P-5 (Organization Report) addresses. Respondent appeared at the hearings and presented evidence.

2. Commission records indicate that Dyne filed its initial organization report in February 1979. Dyne's organization report is scheduled to be renewed annually on April 1.

3. On March 20, 2002, Dyne restored its organization status by: 1) submitting evidence that it plugged Well No. 6 on the Gray (01708) Lease as required by the Final Order entered in Docket No. 10-0224181; 2) transferring three leases to bring its total well count under 100; and 3) filing a letter of credit of $50,000.00 to meet its financial security requirements.

4. Commission records indicate that Dyne designated itself operator of the Oates (00981) Lease, by filing a Commission Form P-4 with an effective date of April 1, 1979.

5. Dyne last reported production on the Oates Lease in December 1998.

6. The Commission approved Dyne's transfer of the Oates Lease on December 7, 2001.

7. On September 18, 2000, Dyne requested plugging extensions for the Oates Lease. The extensions were initially denied because the Dyne's check was not honored by its financial institution. The extensions could not be renewed until Dyne resolved the Final Orders entered in Oil & Gas Docket Nos. 10-0223724 and 10-0224181.

8. The plugging extensions for the Oates Lease were reinstated on July 20, 2001.

9. In responding to Requests for Admission served on the Commission in May 2001, the Commission admitted that Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease did not pose a serious threat to health and safety.

10. The record reflects two previous Final Orders entered against respondent for violations of Commission rules in Oil & Gas Docket Nos. 10-0223724 and 10-0224181. These Final Orders were resolved when Dyne entered into a Payout Agreement with the Attorney General's Office in June 2001.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely issued to the appropriate persons entitled to notice.

2. All things necessary to the Commission attaining jurisdiction have occurred.

3. Dyne was the operator of the Oates Lease as defined by Statewide Rule 14 and Section 89.002 of the Texas Natural Resources Code and is a person as defined by Statewide Rule 79 and Chapters 85 and 89 of the Texas Natural Resources Code.

4. During the time period it was the operator of the Oates Lease, Dyne possessed the primary responsibility for complying with Rules 13 and 14 and with Chapter 89 of the Texas Natural Resources Code as well as other applicable statutes and Commission rules.

5. Pursuant to Commission Rule of Practice and Procedure §1.84 and the opinions in *Bay Area Thoracic & Cardiovascular Surgical Ass'n v. Nathanson*, 908 S.W.2d 10, 11(Tex.App.--Houston [1st Dist.] 1995, no writ) and *Cartwright v. Mbank Corpus Christi, N.A.*, 865 S.W.2d 546, 550 (Tex.App.--Corpus Christi 1993, writ denied) the Commission's response admitting Request for Admission No. 5 precludes consideration of any evidence tendered by the Commission contrary to its admission.

6. Because of the Commission's evidentiary admission with respect to Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease, there is no evidentiary basis to conclude that

usable quality groundwater may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease or that the violations related to these unplugged wellbores constituted a cognizable threat to the public health and safety because of the probability of pollution.

7. Under Texas Natural Resources Code §81.0531(a) the Commission may impose an administrative penalty for the violations of Rules 13 and 14 without the finding of fact that usable quality groundwater may be contaminated by migrations or discharges of saltwater and other oil and gas wastes from Well Nos. 9D, 10D, 11, 12, 16, 17, 18, and 19 on the Oates Lease or that the violations related to these unplugged wellbores constituted a cognizable threat to the public health and safety because of the probability of pollution.

8. The Oates Lease was out of compliance with Statewide Rule 14 from January 1, 2000 through September 1, 2000 and from September 1, 2001 to December 6, 2001.

9. The Oates Lease was out of compliance with Statewide Rule 13 from November 2, 2000 through May 11, 2001.

10. Well No. 19 on the Oates Lease was out of compliance with Statewide Rule 14 (b)(2)(E) from May 31, 2000 to June 1, 2001.

RECOMMENDATION

The examiner recommends that the above findings and conclusions be adopted and the attached order approved, requiring that Dyne Oil & Gas, Inc., within 30 days from the day immediately following the date this order becomes final, to pay an administrative penalty in the amount of TWELVE THOUSAND FIVE HUNDRED DOLLARS ($12,500.00);

Respectfully submitted,

Mark Helmueller
Hearings Examiner