

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL AND GAS DOCKET NO. 03-0280437**

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**ENFORCEMENT ACTION FOR ALLEGED VIOLATIONS COMMITTED BY DUNCAN ENERGY, LLC (232049), AS TO THE SLADE LEASE, WELL NO. 1 (686882), HULL FIELD LIBERTY 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 August 22, 2013, and that the respondent, Duncan Energy, LLC (232049), failed to appear or respond to the Notice of Opportunity for 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. Duncan Energy, LLC (232049), ("Respondent"), was given Notice of Opportunity for Hearing by certified mail, addressed to the most recent Form P-5 (Organization Report) address, which was signed and returned to Commission.
2. The certified receipt containing the Original Complaint and the Notice of Opportunity for Hearing, was signed and returned to the Commission on July 15, 2013. The electronic certified receipt is included in the file and has been on file with the Commission for 15 days, exclusive of the day of receipt and day of issuance.
3. On December 4, 2012, Respondent, filed an Organization Report (Form P-5) with the Commission reporting that its officers consisted of the following individual(s): Robert C. Duncan, Manager.
4. Robert C. Duncan, 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 (686882) on the Slade Lease ("subject well"/"subject lease") by filing a W-1 Form (Application to Drill, Re-Complete or Re-Enter) received November 3, 2009, issued November 4, 2009.
7. Respondent's P-5 (Organization Report) became delinquent on July 1, 2013. Respondent had a \$50,000 bond as its financial assurance at the time of its last P-5 renewal.
8. Commission District inspections were conducted on October 22, 2012 and November 6, 2012 for the Slade Lease. The signs or identification required to be posted at Well No. 1 (686882) were missing.
9. Failure to properly identify a well by the posting of the sign required by Statewide Rule 3 has the potential for causing confusion and delay in remedying a violation or emergency and poses a threat to the public health and safety.
10. According to Commission records Well No. 1 (686882) on the Slade Lease was completed in May 2010. Commission District inspections were conducted on May 2, 2012, September 20, 2012, October 22, 2012 and November 6, 2012 for the Slade Lease, Well No. 1 (686882). The completion pit remains open and has not been backfilled.
11. Unfilled pits constitute a hazard to public health and safety because of the potential for illegal dumping in the pits and the potential for surface runoff to collect in the pit and seep into subsurface waters.
12. According to Commission records, Well No. 1 (686882) of the Slade Lease was completed in May 2010. A review of Commission records reveals Respondent has failed to file the requisite completion report for Well No. 1 (686882) of the Slade Lease.
13. The Respondent has not demonstrated 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 is in violation of Commission Statewide Rules 3, 8(d)(4)(G)(i)(III) and 16(b).
4. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 3, which requires that each property that produces oil, gas or geothermal resources and each oil, gas or geothermal resource well and tank, or other approved crude oil

measuring facility shall post signs or identification.

5. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 8(d)(4)(G)(i)(III), which requires workover pits to be dewatered, filled and compacted within 120 days from the completion of workover operations.
6. Respondent is responsible for maintaining the subject lease in compliance with Statewide Rule 16(b), which requires that the owner, or operator of an oil, gas or geothermal resource well, must within thirty days (30) after 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.
7. Respondent is 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.
8. 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.
9. 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, Robert C. Duncan, 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. Duncan Energy, LLC (232049), shall place in compliance the Slade Lease, Well No. 1 (686882), Hull Field, Liberty County, Texas; and
2. Duncan Energy, LLC (232049), shall pay to the Railroad Commission of Texas, for disposition as provided by law, an administrative penalty in the amount of **EIGHT THOUSAND DOLLARS (\$8,000.00)**.

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 25<sup>th</sup> day of March 2014.

**RAILROAD COMMISSION OF TEXAS**

(Signatures affixed by Default Master Order dated March 25, 2014)

MRC/sa