

March 21, 2005

OIL AND GAS DOCKET NO. 01-0241440

APPLICATION OF EXCALIBUR E & P, L.L.C., TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 21 TO ALLOW PRODUCTION BY SWABBING, BAILING, OR JETTING OF WELL NOS. 5, 7, 10, 11, 13, 14, 15, 28, 30, 31, 32, 33, 34, 35, 36, 37, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, & 63 ON THE KOONSEN (01242) LEASE, MINERVA-ROCKDALE FIELD, MILAM COUNTY, TEXAS

APPEARANCES:

FOR APPLICANT:

Richard Michael
Dan Hawkins
Ed Pettijohn

APPLICANT:

Excalibur E & P, L.L.C.
“ ”
“ ”

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

NOTICE OF HEARING:

January 28, 2005

DATE CASE HEARD:

February 28, 2005

HEARD BY:

Mark Helmueller, Hearings Examiner
Donna Chandler, Technical Examiner

PFD CIRCULATION DATE:

March 21, 2005

STATEMENT OF THE CASE

Excalibur E & P, L.L.C. (hereinafter “Excalibur”) has applied for an exception to Statewide Rule 21 for Well Nos. 5, 7, 10, 11, 13, 14, 15, 28, 30, 31, 32, 33, 34, 35, 36, 37, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, & 63 on the Koonsen (01242) Lease, Minerva-Rockdale Field, Milam County, Texas (hereinafter “Koonsen Lease” and/or “subject wells”) to allow it to produce the wells by regularly swabbing them with a mobile swabbing unit. Excalibur appeared at the hearing and presented evidence in support of its application. The examiners recommend that Excalibur’s application be granted.

MATTERS OFFICIALLY NOTICED

Official Notice was taken of the following printouts of reports from the Commission's mainframe database: 1) Excalibur's initial and most recent Commission Form P-5 (Organization Report) filings; 2) Commission Form P-4 (Producer's Transportation Authority and Certificate of Compliance) filings for the Koonsen Lease; 3) Production Data Query reports for the Koonsen Lease showing the reported monthly production and disposition of production from January 1993 through January 2005; 4) On-Schedule Leases, Wells, Wellbores By Operator Records for Excalibur as of February 2005 that identify the leases and wells for which Excalibur is currently recognized as the operator; and 5) P-4 Certificate of Compliance Certified Letter/Cancellation/Reissue Inquiries for the Koonsen Lease.

SUMMARY OF EVIDENCE

Excalibur first filed an Organization Report with the Commission in 1994 and filed its most recent Organization Report in March 2004. Excalibur is currently listed as the operator of 8 leases and 67 wells with a total depth of 126,103 feet. Excalibur submitted a \$50,000 bond as its financial assurance at the time of its most recent Organization Report.

Excalibur was recognized as the operator of the Koonsen Lease when the Commission approved a Commission Form P-4 (Certificate of Compliance and Transportation Authority) on October 6, 2004. Commission records show 41 wells on the Koonsen Lease with approximate depth between -800 and -1000 feet. Excalibur also submitted three recently filed Commission Form W-2s (Oil Well Potential Test, Completion or Recompletion Report, and Log) for Well Nos. 54, 55, and 56. Excalibur claims that these three wells were drilled by a prior operator in 1993 who neglected to file the completion reports with the Commission. The addition of these three wells, for which Excalibur also seeks swabbing authority would increase: 1) the total number of wells it operates to 70 wells; 2) the total depth of Excalibur's wells to 129,103 feet; and 3) the total number of wells on the Koonsen Lease from 41 to 44.

Excalibur also presented documentation and testimony that it has a good faith claim of a continuing right to operate the Koonsen Lease based on an oil, gas and mineral lease from the mineral interest owner executed on October 1, 2001. Excalibur contends that the lease is valid under the continuous production clause, a contention supported by Commission production records showing continuous production from October 1, 2001 to the present..

Excalibur contends that from May 1999 to January 2004, all production from the Koonsen Lease was by swabbing. Commission records show that from May 1999 through January 2004, 4727 barrels of oil were reported as produced from the wells on the Koonsen Lease, an average of 84.4 barrels of oil per month over the 56 months. Commission records also confirm regular sales of the oil produced by swabbing.

Excalibur claims that when its partner, New Tex E & P, L.L.C. ("New Tex") acquired the

Koonsen Lease in September 2001, all of the wells were stripped of any production equipment and had been produced by swabbing with a Klaeger mobile swabbing unit. New Tex obtained the current mineral lease, and began using the Klaeger rig to produce the wells by swabbing.

Excalibur advises that in December 2003, New Tex equipped a cluster of 10 wells on the lease with pumping rigs and equipped an 11th well to dispose of produced water to determine whether there would be any increased production in response to injection. At that time it also stopped swabbing production from the other 33 wells, which are the subject of this application.

Excalibur represents that all reported production from the Koonsen Lease beginning in January 2004 is from the 10 wells equipped with pumping units. Commission records show that 1,159 barrels of oil were produced by pumping production in 2004, an average of 96 barrels per month.

Fresh water in the area is required to be protected to a depth of 300 feet below the surface. Due to the shallow depth of these wells, the cement was circulated from the total depth of the well to surface behind the 4 1/2" surface casing. The last fluid level tests reported for the wells to be swabbed were all approved.¹ Each well is equipped with a shop made cap.

With respect to actual swabbing operations, Excalibur intends to use its Klaeger rig to swab the wells in same manner in which they were swabbed prior to January 2004. Excalibur estimates that swabbing operations will result in the production of approximately 15 barrels of oil per month for each of the 33 wells on the Koonsen Lease, or approximately 500 barrels per month. This amount is significantly higher than the 329 barrels which was the highest monthly total during the 56 month time period that the wells were produced by swabbing, and represents a 400% increase over the average monthly production during that same period.

Excalibur hopes that swabbing the 33 wells on the lease will only be a temporary measure if injection increases the response in the wells it will produce on pump. If that project is successful, Excalibur intends to reequip the other wells on the Koonsen Lease as it expands the waterflood.

Commission records for the Koonsen Lease indicated no violations of Commission rules by Excalibur or New Tex related to physical operations.² There is no history of any Enforcement actions against either Excalibur or New Tex for violations of Commission rules.

AUTHORITY

¹ The Commission Form H-15 (Test on an Inactive Well More Than 25 Years Old) report top of fluid at depths ranging from 557 feet to 911 feet below the surface. Under Statewide Rule 14(b)(2)(A) and (B), a plugging extension for an inactive well will be denied if the top of fluid is reported to be within 250 feet of the base of the deepest usable quality water strata.

² It should be noted that the Commission records for the Koonsen Lease, indicate that several certified letters were sent to New Tex and Excalibur from March 2000 through October 2004. All but two of these letters related to delinquent Organization Report filings and discrepancies in production reporting. All of these violations identified in the certified letters were resolved. The remaining two violations were for delinquent fluid level test reports in August 2003 and August 2004. Both of these violations resulted in cancellation of the certificate of compliance. Both violations were resolved within a week of the severance.

Statewide Rule 21(k) provides in pertinent part:

Swabbing, bailing, or air jetting of wells is prohibited as a production method for wells unless the Commission has after notice and hearing, granted an exception to this subsection. The Commission shall give notice of the hearing at least 10 days prior to the date of the hearing.

(1) An operator seeking an exception to allow swabbing, bailing, or air jetting of a well shall:

(A) provide the Commission with the names and mailing addresses of the mineral interest owners of record and surface owners of record of the lease on which a well for which an exception is sought is located;

(B) present evidence at the hearing establishing:

(i) the method of production proposed;

(ii) that any production is properly accounted for pursuant to §3.26 of this title (relating to Separating Devices, Tanks, and Surface Commingling of Oil);

(iii) that the proposed exception is necessary to prevent waste or protect correlative rights;

(iv) that wellhead control is sufficient to prevent releases from the well;

(v) that no pollution of usable quality water or safety hazard will result from either the proposed production method or the condition of the well; and

(vi) that the operator possesses a continuing good faith claim to the right to operate the well.

(2) In addition to the information set out in paragraph (1) of this subsection, factors that the Commission may consider in ruling on a request for an exception include:

(A) whether the well has passed a mechanical integrity test within the preceding 12 months;

(B) the estimated monthly and cumulative production from the well if the requested exception is granted;

(C) whether production will be into an on-lease tank battery or a mobile tank;

(D) the adequacy of the financial assurance provided by the operator to assure that the well will be timely and properly plugged;

(E) whether production volume, fine sands in the reservoir, or other factors render pumping of the well impracticable;

(F) whether the reservoir from which the well produces contains hydrogen sulfide; and

(G) the operator's history of compliance with Commission rules.

EXAMINERS' OPINION

An operator must present evidence addressing six issues outlined in Rule 21(k)(1)(B) to

meet the minimum requirements for an exception to produce a well by swabbing, bailing or air jetting. The operator must show: 1) the method of production; 2) the production accounting method; 3) that the exception is necessary to prevent waste or protect correlative rights; 4) that wellhead control is sufficient to prevent releases from the well; 5) that the production method for the well is safe and will not result in pollution; and 6) that it has good faith claim of a right to operate the well. Additionally, Rule 21(k)(2) delineates several potentially relevant factors to the Commission's consideration of an application for an exception under Rule 21. The examiners believe that Excalibur has met the mandatory requirements of Rule 21(k)(1), and that balancing these mandatory requirements with all of the applicable discretionary elements of Rule 21(k)(2) warrants granting Excalibur the authority to produce 33 wells on the Koonsen Lease by swabbing.

Excalibur Meets the Requirements Necessary to Permit Production by Swabbing

The examiners believe that Excalibur's application satisfies the six mandatory requirements under Statewide Rule 21(k)(1)(B). Proper notice was provided to the parties pursuant to Rule 21(k)(1)(A). The swabbing procedure was outlined as required by Rule 21(k)(1)(B)(i). Excalibur also showed that production would be properly accounted for under Commission rules as required under Rule 21(k)(1)(B)(ii). As to the requirement that swabbing will prevent waste or protect correlative rights, Commission production records show that swabbing resulted in the production of a significant volume of oil from the Koonsen Lease, over 4000 barrels, during the 56 month period. Wellhead control is sufficient to prevent releases from the well as required by Rule 21(k)(1)(B)(iv). Further, the reported fluid levels in the wells and the fact that they are cemented from the total depth to the surface minimize any threat of pollution to usable quality water as required by Rule 21(k)(1)(B)(v). Finally, Excalibur has a good faith claim of the right to operate the Koonsen Lease as required by Rule 21(k)(1)(B)(vi) through the October 1, 2001 lease and the continuous production from the Koonsen Lease..

Excalibur Satisfies Several Discretionary Issues Related to Swabbing

The evidence also supports granting Excalibur authority to produce the Koonsen Lease by swabbing based on several discretionary issues which the Commission may consider under Statewide Rule 21(k)(2).³ The concern addressed by Rule 21(k)(2)(C) appears to be addressed as all oil will be transferred to the on-lease tank battery after the wells have been swabbed. Additionally, Excalibur has the required financial assurance in place under Rule 21(k)(2)(F) in the form of a \$50,000.00 bond. Finally, under Rule 21(k)(2)(G), there is no history of Enforcement actions associated with Excalibur's physical operations, and Excalibur has an acceptable record of compliance.

Finally, while not a factor under Commission rules, it appears that in the best case scenario, Excalibur only plans to swab the wells for a temporary period until it can expand its current waterflood on the Koonsen Lease. The examiners specifically note that despite the estimated

³ It appears that neither the provisions relating to mechanical integrity tests set in Rule 21(k)(2)(A) nor the provisions relating to hydrogen sulfide reservoirs set in Rule 21(k)(2)(F) are applicable in this case.

monthly production figures provided in its swabbing application, the actual production information suggests significantly higher volumes of oil will be produced if the wells are restored to pumping production in association with an expanded waterflood.

After balancing all of the applicable factors set forth by Rule 21, it is the examiners' opinion that Excalibur should be granted the limited authority to produce by swabbing only the 33 wells identified in its application on the Koonsen Lease. Authority to produce any of the remaining 11 wells would require Excalibur to file new application.

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. E & P, L.L.C. (hereinafter "Excalibur") has applied for authority to produce 33 wells on its Koonsen (01242) Lease ("Koonsen Lease" and/or "subject wells") by regularly swabbing the wells with a mobile swabbing unit.
2. Applicant and all other affected parties identified by the applicant, were given at least 10 days notice of this proceeding at the addresses provided by applicant. Excalibur appeared at the hearing and presented evidence in support of the application.
3. Commission records show that Excalibur first filed an Organization Report with the Commission in 1994 and filed its most recent Organization Report in March 2004. Excalibur is currently listed as the operator of 8 leases and 67 wells with a total depth of 126,103 feet. Excalibur submitted a \$50,000 bond as its financial assurance at the time of its most recent Organization Report.
4. Excalibur was recognized as the operator of the Koonsen Lease when the Commission approved a Commission Form P-4 (Certificate of Compliance and Transportation Authority) on October 6, 2004.
5. Commission records show 41 wells on the Koonsen Lease with approximate depth between -800 and -1000 feet.
6. Commission Form W-2s (Oil Well Potential Test, Completion or Recompletion Report, and Log) were filed on February 23, 2005 for Well Nos. 54, 55, and 56, which are also included among the wells for which Excalibur seeks swabbing authority. The addition of these three wells would increase:
 - A. the total number of wells Excalibur operates to 70 wells;
 - B. the total depth of Excalibur's wells to 129,103 feet; and

- C. the total number of wells on the Koonsen Lease from 41 to 44.
7. Excalibur has current right to operate the Koonsen Lease through a lease with the mineral interest owner which was executed on October 1, 2001 which would appear to remain valid pursuant to the continuous production clause.
 8. All wells on the subject lease are completed in the Minerva-Rockdale Field.
 9. Commission records show that from May 1999 through January 2004, 4727 barrels of oil were reported as produced from the wells on the Koonsen Lease, an average of 84.4 barrels of oil per month over the 56 months. Commission records also confirm regular sales of the oil produced by swabbing.
 10. The Texas Commission on Environmental Quality has determined that usable quality fresh water in the area is present to a depth of 300 feet below the surface. The most recent fluid level tests filed with the Commission for the subject wells were all approved as they reported that the fluid level in each of the wells was at -550 feet or deeper. Each well on the Koonsen Lease has been cemented from the total depth of the well to the surface.
 11. Each well is equipped with wellhead control sufficient to prevent releases from the well.
 12. For all swabbing operations, Excalibur will record the date, the well swabbed, the depth where fluid is encountered in the wellbore, the type of fluid swabbed, and the amount of fluid transferred to the storage tanks on the Koonsen Lease.
 13. An exception to produce the wells on the Koonsen Lease by swabbing is necessary to prevent waste. Production of the Koonsen Lease by swabbing over the last 56 months has resulted in the recovery of over 4,000 barrels of oil.
 14. All oil is transferred to the on-lease tank battery after the wells are swabbed.
 15. Excalibur has no history of outstanding violations of Commission rules.

CONCLUSIONS OF LAW

1. Proper notice of hearing was timely given to all persons legally entitled to notice.
2. All things have occurred to give the Commission jurisdiction to decide this matter.
3. Excalibur's application satisfies the mandatory requirements for an exception to Statewide Rule 21 to continue to produce the wells on the Koonsen Lease by swabbing.
 - a. Excalibur will produce the wells on the subject lease with a mobile swabbing truck.

- b. For all swabbing operations, Excalibur will record the date, the well swabbed, the fluid depth, and the amount of fluid transferred to the storage tanks on the lease.
 - c. An exception to produce the wells on the Koonsen Lease by swabbing is necessary to prevent waste of a significant volume of oil.
 - d. The wellhead control for each well is sufficient to prevent releases.
 - e. The proposed production method will not pollute usable quality water as the fluid levels in the wells are below the depth of usable quality water present in the area.
 - f. Excalibur has a good faith claim of the right to operate the wells on the Koonsen Lease as confirmed by the lease with the current mineral interest owner.
4. Excalibur's application satisfies three of the applicable discretionary issues which the Commission may consider when ruling on a request for an exception to Statewide Rule 21.
- a. All oil is transferred to the on-lease tank battery after the wells are swabbed.
 - b. Excalibur has a \$50,000.00 bond in place as its financial assurance.
 - c. Excalibur has no history of outstanding violations of Commission rules.

RECOMMENDATION

The examiners recommend that Excalibur's application be granted to produce Well Nos. 5, 7, 10, 11, 13, 14, 15, 28, 30, 31, 32, 33, 34, 35, 36, 37, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, & 63 on the Koonsen (01242) Lease by swabbing, in accordance with the attached final order.

Respectfully submitted,

Mark J. Helmueller
Hearings Examiner

Donna Chandler
Technical Examiner