

October 21, 2005

OIL AND GAS DOCKET NO. 04-0244470

THE APPLICATION OF BLACKBRUSH O & G, INC. TO CONSIDER AN EXCEPTION TO STATEWIDE RULE 39 FOR ITS GATES "Y" LEASE, VARIOUS DOS HERMANOS FIELDS, WEBB COUNTY, TEXAS

HEARD BY: Thomas H. Richter, P.E., Technical Examiner

DATE OF HEARING: October 18, 2005

APPEARANCES:

George C. Neale, attorney
Tommie Flowers
Ed Mainka

REPRESENTING:

Blackbrush O & G, Inc.

EXAMINER'S REPORT AND RECOMMENDATION
STATEMENT OF THE CASE

Blackbrush O & G, Inc. requests an exception to Statewide Rule 39 for its 5226.8 acre Gates Ranch 05S Lease in the Dos Hermanos (Olmos) Field.

This application was unopposed and the examiner recommends approval.

DISCUSSION OF EVIDENCE

Statewide Rule 39 requires that proration and drilling units established for individual wells drilled or to be drilled consist of acreage which is contiguous. While this case does not involve a single drilling unit or proration unit, Blackbrush seeks an exception to Rule 39 in order for the 5226.8 acre Gates Ranch 05S Lease and the non-contiguous acreage to be considered a single lease for Commission purposes. The subject acreage produces from the Dos Hermanos (Olmos), Dos Hermanos, E. (Olmos) and Dos Hermanos, W. (Olmos) Fields. These fields are part of a proposed field consolidation for the Gold River, North (Olmos) Field (Oil & Gas Docket No. 04-0240701).

In May 1990, Kerns Oil & Gas purchased the producing properties in the subject lease. Simultaneous with this acquisition, the mineral/surface owner filed suit against Beacon Exploration and Kerns, for non-development of the leases. As part of the settlement in this lawsuit, all non-producing tracts within the leases were released effective May 1, 1991 and the Lessor assigned all his working interest in the producing units to Kerns, and the lease as to the tracts, were ratified. The release on the non-producing tracts left Kerns with the developed tracts in the previous leases, which were now non-contiguous.

On November 25, 1998, the Lessor executed a lease (“Gates “Y” Lease”) covering many of the release tracts with Segundo Navarro Drilling, Ltd. Because of the manner in which the tracts had been released in 1991, the lease was comprised on non-contiguous acreage. In November 1999, with the consent of the Lessor, Kerns acquired 2,240 acres of the Gates “Y” Lease from Segundo. Although the Gates “Y” contained acreage that was non-contiguous, this lease filled in the retained acreage between the Blackbrush producing tracts.

Because of lease provisions, various tracts within the leases have terminated. On June 1, 2005, Blackbrush as successor in interest to Kerns acquired a lease (“Gates 05S Lease”) covering 5,226.8 acres. This lease covers non-contiguous acreage filling in the open acreage within the existing leases currently owned by Blackbrush and also extends the leasehold.

Notice of the hearing was given to all offset operators that offset any of the subject tracts which are the subject of the non-contiguous acreage, to all offset mineral interest owners and to the mineral interest owners of the all the subject tracts. No protests to the application were received.

All of the acreage is productive in the various fields. Approval of the requested exception will allow Blackbrush O & G to efficiently develop the acreage. The fields (either separately or if consolidation is approved) provide for 80 acre density. Based on an analysis of the non-contiguous acreage within the Gates 05S Lease, a total of 63 wells could be drilled on the 80 acre spacing. With an exception to Statewide Rule 39, an additional 2 wells could be drilled for a total of 65 wells. The cost to drill and complete a well in the subject field(s) is \$518,000.

FINDINGS OF FACT

1. Notice of this hearing was given to all affected persons at least ten days prior to the date of hearing. No protests were received.
2. Blackbrush O & G seeks authority to have it Gates 05S Lease of 5,226.8 non-contiguous acres in Webb County be considered a single lease for Railroad Commission purposes.
3. All of the mineral interest ownership in the tracts is identical.
4. In May 1990, Kerns Oil & Gas purchased the producing properties in the subject lease and the mineral/surface owner filed suit against Kerns, for non-development of the leases.
 - a. As part of the settlement in this lawsuit, all non-producing tracts within the leases were released effective May 1, 1991 and the Lessor assigned all his working interest in the producing units to Kerns, and the lease as to the tracts, were ratified.
 - b. The release on the non-producing tracts left Kerns with the developed tracts in the previous leases, which were now non-contiguous.
5. In 1998, the Lessor executed a lease (“Gates “Y” Lease”) covering many of the release tracts with Segundo Navarro Drilling, Ltd which comprised the non-contiguous acreage.

- a. In 1999, Kerns acquired 2,240 acres of the Gates “Y” Lease from Segundo.
 - b. Although the Gates “Y” contained acreage that was non-contiguous, this lease filled in the retained acreage between the Blackbrush producing tracts.
6. Because of lease provisions, various tracts within the leases have terminated. On June 1, 2005, Blackbrush as successor in interest to Kerns acquired a lease (“Gates 05S Lease”) covering 5,226.8 acres. This lease covers non-contiguous acreage filling in the open acreage within the existing leases currently owned by Blackbrush and also extends the leasehold.
 7. All of the acreage in the 5,226.8 acres is productive in the subject field(s).
 8. Approval of the requested exception will allow Blackbrush O & G to efficiently develop the acreage and will prevent the drilling of unnecessary wells in field(s).

CONCLUSIONS OF LAW

1. Proper notice of this hearing was issued.
2. All things have been accomplished or have occurred to give the Commission jurisdiction in this matter.
3. Approval of the subject application will not harm correlative rights and will not cause waste.

RECOMMENDATION

Based on the above findings and conclusions of law, the examiner recommends that the Commission consider the 5,226.8 non-contiguous acres as a single lease in the Dos Hermanos (Olmos), Dos Hermanos, E. (Olmos) and Dos Hermanos, W. (Olmos) Fields. These fields are part of a proposed field consolidation for the Gold River, North (Olmos) Field (Oil & Gas Docket No. 04-0240701).

Respectfully submitted,

Thomas H. Richter, P.E.
Technical Examiner
Office of General Counsel