

CHRISTI CRADDICK, *CHAIRMAN*
RYAN SITTON, *COMMISSIONER*
WAYNE CHRISTIAN, *COMMISSIONER*



RANDALL D. COLLINS, *DIRECTOR*

RAILROAD COMMISSION OF TEXAS HEARINGS DIVISION

PROPOSAL FOR DECISION

OIL AND GAS DOCKET NO. 06-0307445:

COMPLAINT BY DEBRA CHRISTIAN THAT BREITBURN OPERATING L.P. (OP. NO. 090732) NO LONGER HAS A GOOD FAITH CLAIM TO OPERATE VARIOUS UNITS IN THE WHITE OAK (COTTON VALLEY) FIELD, GREGG COUNTY, TEXAS

APPEARANCES

DEBRA CHRISTIAN:

William T. Hughey, Atty
Debra Christian

BREITBURN OPERATING L.P.:

Tim George, Atty
Christopher "Kitt" Jordan, Landman

PROCEDURAL HISTORY:

Notice of Hearing:	December 14, 2017
Hearing on the Merits:	April 17, 2018
Transcript Received:	May 7, 2018
Proposal for Decision:	May 21, 2018
Heard by:	Clayton J. Hoover, <i>Administrative Law Judge</i> Robert Musick, P.G. <i>Technical Examiner</i>

SUMMARY

In Docket No. 06-0307445, the Complainant, Debra Christian ("Christian"), filed with the Commission a complaint challenging Breitburn Operating L.P.'s ("Breitburn") "good faith claim" to a continued right to operate fifteen (15) wells located on seven (7) gas units in the White Oak (Cotton Valley) Field, Gregg County, Texas (such seven (7) units being hereafter called "Units"), which were described in Exhibit "A" to the Notice of Hearing. Specifically, Christian alleges that certain leases included in those units have expired by their own terms or were invalid from their inception. In response to the Complaint, Breitburn requested a hearing on the merits.

The sole issue before the Commission is whether Breitburn has a "good faith claim" to operate the Wells and Units, as the term is defined in Statewide Rule 15.

At the hearing on the merits, Christian presented testimony and documentary evidence consisting of a document described as the Original Lease, a title opinion from Flowers & Davis Land and documents relating to the estate of Callie Jones.¹ Additional documents were submitted as late filed exhibits and were considered. Ms. Christian also testified that she was part of three separate lines of the Jones and Christian families and therefore claimed an interest in the wells at issue.

Tim George introduced the testimony of Christopher, "Kitt" Jordan, Landman of Protestant, and supporting documentary evidence to show that: (1) the Units were each properly formed by designation filed with the county clerk in Gregg County and by P-12's filed with the Commission; (2) that there has been continuous production since the formation of such units; and (3) that the relevant leases identified by Ms. Christian were included and properly described.²

The record evidence demonstrates that Christian failed to carry her burden of proof to show that the leases included in the Units have terminated or that the Units were invalid from their inception. Breitburn, on the other hand, did prove with both testimony and documentary evidence that it has a good faith claim to operate the Units. It is recommended that the Commission dismiss the Complaint.

EVIDENCE PRESENTED

CHRISTIAN

Debra Christian, who brought the complaint, testified as to the previous generations of her family who owned interests in the subject tract, as well as three exhibits related to the oil and gas leases and inheritance by intestacy of her interest in the subject tract.³

BREITBURN

In support of its argument that it has a "good faith claim" to operate the Units, Christopher "Kitt" Jordan testified that Breitburn Operating holds currently valid producing leasehold interests covering each of the Units and that Breitburn Operating has continuously produced the wells.⁴ Mr. Jordan's testimony covered introduction of Breitburn Exhibits 1-11 to demonstrate the origin of leasehold title, inclusion of the subject tracts in Units and conveyances vesting title in Breitburn's predecessor (and then Breitburn).⁵

¹ See Christian Exhibits 1, 2 and 3

² See Respondent Exhibits 3-9

³ See Christian Exhibits 1, 2 and 3

⁴ Trns. pg 17, ln 3- pg 69, ln 15

⁵ See Respondent Exhibits 1-13

OPINION

The sole issue before the Commission is whether Breitburn holds a "good faith claim" to a continuing right to operate the Units. Statewide Rule 15(a)(5) defines "good faith claim" as:

A factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate.

The Commission's authority to determine a "good faith claim" arises from the *Magnolia* case. In discussing the Commission's authority to grant a drilling permit, the Texas Supreme Court stated, "The function of the Railroad Commission in this connection is to administer the conservation laws. When it grants a permit to drill a well it does not undertake to adjudicate questions of title or rights of possession. These questions must be settled in the courts."⁶ The Court concluded, "Of course, the Railroad Commission should not do the useless thing of granting a permit to one who does not claim the property in good faith."⁷

In the context of the right to continue operation of a Unit, the Commission looks to the operator's Unit Designation and the production history from the Unit.

In the instant Docket, Breitburn contends that its leases comprising the Units remain valid because of the filings in the county clerk's office and the Commission and because the wells have been producing continuously, and that, therefore, Breitburn holds a "good faith claim" to a continuing right to operate each of the Units.

Christian's testimony and documentary evidence failed to refute the assertions made and evidence presented by Breitburn as to such "good faith claim". Christian contended that because the original lease(s) were not signed by George Jones that there was a defect in title, but Breitburn clearly showed that the widow and heirs of George Jones executed such leases as lessors, as reflected in the official records of the county clerk's office. No defect in title was established.

CONCLUSION

The Examiners conclude that Breitburn did present a "good faith claim" to operate the Units and make the following Findings of Fact and Conclusions of Law:

⁶ *Magnolia Petroleum Co. v. Railroad Commission*, 170 S.W. 2d 189, 191 (Tex. 1943)

⁷ *Id.* At 191

FINDINGS OF FACT

1. On or about December 5, 2017, Debra Christian filed with the Commission a written complaint alleging that Breitburn Operating L.P. did not hold a "good faith claim" to operate seven (7) gas units ("Units") in the White Oak (Cotton Valley) Field, Gregg County, Texas.
2. Christian claims to be a mineral and royalty owner in the Units.
3. By letter from the Administrative Law Judge, Breitburn was notified of the Complaint.
4. Breitburn requested a hearing on the merits.
6. A Notice of Hearing was issued December 14, 2017.
7. After a Prehearing Conference and a continuance, the Hearing on the Merits was held on April 17, 2018.
8. Breitburn Operating L.P. is the Form P-4 record operator of the seven (7) Units, White Oak (Cotton Valley) Field, Gregg County, Texas.
9. Breitburn Operating L.P. presented documentary evidence and testimony to show that (a) the Units were each properly formed by a designation properly executed, acknowledged and filed with the county clerk in Gregg County and by a Form P-12 filed with the Commission, (b) that there has been continuous production from each unit since the formation of each of such units and (c) that the relevant leases identified by Ms. Christian were included in the designations and were properly described.
10. A "good faith claim" is defined in Commission Statewide Rule 15(a)(5) as "a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate, such as evidence of a currently valid oil and gas lease or a recorded deed conveying a fee interest in the mineral estate." [16 TEX. ADMIN. CODE § 3.15(a)(5)]

CONCLUSIONS OF LAW


1. Proper notice was timely issued to all persons entitled to notice.
2. All things necessary to the Commission attaining jurisdiction have occurred.
3. Breitburn Operating L.P. has a "good faith claim" to operate seven (7) gas units in the White Oak (Cotton Valley) Field, Gregg County, Texas.
4. Debra Christian's Complaint should be dismissed.

RECOMMENDATIONS

The Administrative Law Judge and Technical Examiner recommend the Commission dismiss the Complaint brought by Debra Christian against Breitburn Operating L.P.

RESPECTFULLY SUBMITTED,


CLAYTON J. HOOVER
Administrative Law Judge


ROBERT MUSICK, P.G.
Technical Examiner