



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL & GAS DOCKET NO. 7B-0309928

COMPLAINT BY GEORGE CHRISTIAN THAT CHAN WEST OIL CORPORATION (OPERATOR NO. 144179) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE TAYLOR, L.F. (02160) LEASE, SOJOURNER (BURSEN) FIELD, HASKELL COUNTY, TEXAS

OIL & GAS DOCKET NO. 7B-0309929

COMPLAINT BY GEORGE CHRISTIAN THAT CHAN WEST OIL CORPORATION (OPERATOR NO. 144179) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE TAYLOR, L.F. (13029) LEASE, SOJOURNER (STRAWN) FIELD, HASKELL COUNTY, TEXAS

OIL & GAS DOCKET NO. 7B-0309930

COMPLAINT BY GEORGE CHRISTIAN THAT CHAN WEST OIL CORPORATION (OPERATOR NO. 144179) DOES NOT HAVE A GOOD FAITH CLAIM TO OPERATE THE SOJOURNER (02833) LEASE, SOJOURNER FIELD, HASKELL COUNTY, TEXAS

PROPOSAL FOR DECISION

HEARD BY:

Jennifer Cook, Administrative Law Judge
Petar Buva, Technical Examiner

PROCEDURAL HISTORY:

Complaint Filed –	March 12, 2018
Notice of Hearing Issued –	July 31, 2018
Hearing Date –	September 4, 2018
Transcript Received –	October 2, 2018
Proposal for Decision Issued –	November 12, 2018

APPEARANCES:

For Complainant George Christian –
Mr. George C. Neale
George C. Neale, Attorneys at Law

For Respondent Chan West Oil Corporation –
Mr. Akram Chaudhary
President, Vice President, Secretary and Resident Texas Agent for Respondent

Table of Contents

I.	Statement of the Case	3
II.	Jurisdiction and Notice	3
III.	Applicable Legal Authority	4
IV.	Discussion of Evidence	6
	A. Summary of Complainant's Evidence and Argument.....	6
	B. Summary of Respondent's Evidence and Argument	7
V.	Examiners' Analysis	7
VI.	Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law.....	8

I. Statement of the Case

George Christian (“Complainant”) filed these three complaints claiming Chan West Oil Corporation (“Respondent” or “Chan West”) does not have a good faith claim to operate the following leases (“Leases”) in Haskell County:

1. The Taylor, L.F. (02160) Lease in the Sojourner (Bursen) Field,
2. The Taylor, L.F. (13029) Lease in the Sojourner (Strawn) Field, and
3. The Sojourner (02833) Lease in the Sojourner Field.

Complainant owns the mineral interests and surface estate where the wells on the Leases are located. Complainant requests that the Commission order the wells on the Leases to be plugged, the site to be remediated and all surface equipment and gathering lines to be removed.

Complainant asserts Respondent does not have a good faith claim because the contractual lease relied on by Respondent has terminated for lack of production. The contractual lease is past the primary term and requires production thereafter to prevent termination. There has been no reported production on the Leases since January 2017.

Respondent does not dispute there has been no production. Respondent contends the surface is clean and in compliance with Commission rules. Yet, Commission records do not support Respondent’s assertion.

The Administrative Law Judge and Technical Examiner (collectively “Examiners”) respectfully submit this Proposal for Decision (“PFD”) and recommend the Railroad Commission (“Commission” or “RRC”) grant Complainant’s request. The Examiners recommend the Commission find Chan West failed to provide a reasonably satisfactory showing of a good faith claim to operate the Leases and order Chan West to plug the six wells on the Leases in compliance with Commission rules.

II. Jurisdiction and Notice¹

Sections 81.051 and 81.052 of the Texas Natural Resources Code provide the Commission with jurisdiction over all persons owning or engaged in drilling or operating oil or gas wells in Texas, and the authority to adopt all necessary rules for governing and regulating persons and their operations under the jurisdiction of the Commission.

On July 31, 2018, the Hearings Division of the Commission sent a Notice of Hearing (“Notice”) to Complainant and Respondent setting a hearing date of September 4, 2018. Consequently, the parties received more than 10 days’ notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain

¹ The hearing transcript in this case is referred to as “Tr. at [page(s)].” Complainant’s exhibits are referred to as “Complainant Ex. [exhibit no(s)].” Respondent’s exhibits are referred to as “Respondent Ex. [exhibit no(s)].”

statement of the matters asserted.² The hearing was held on September 4, 2018, as noticed. Complainant and Respondent appeared and participated at the hearing.

III. Applicable Legal Authority

Complainant alleges the Commission's current operator of record, Respondent, does not have a good faith claim to operate the wells on the Leases. A good faith claim is defined in the Texas Natural Resources Code and in Commission rule 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.³

The applicable Commission rule in this case is Statewide Rule 15 (or "Rule 15"), which provides inactive well requirements.⁴ An inactive well is defined as:

An unplugged well that has been spudded or has been equipped with cemented casing and that has had no reported production, disposal, injection, or other permitted activity for a period of greater than 12 months.⁵

Rule 15 requires the plugging of inactive wells. Statewide Rule 15(d) states:

(d) Plugging of inactive land wells required.

- (1) An operator that assumes responsibility for the physical operation and control of an existing inactive land well must maintain the well and all associated facilities in compliance with all applicable Commission rules and orders and within six months after the date the Commission or its delegate approves an operator designation form must either:
 - (A) restore the well to active status as defined by Commission rule;
 - (B) plug the well in compliance with a Commission rule or order; or
 - (C) obtain approval of the Commission or its delegate of an extension of the deadline for plugging an inactive well.⁶

² See Tex. Gov't Code §§ 2001.051, 052; 16 Tex. Admin. Code §§ 1.42, 1.45.

³ Tex. Nat. Res. Code § 89.002(11); 16 Tex. Admin. Code § 3.15(a)(5).

⁴ Statewide Rule 15 refers to 16 Tex. Admin. Code § 3.15.

⁵ 16 Tex. Admin. Code § 3.15(a)(6).

⁶ 16 Tex. Admin. Code § 3.15(d).

So for an inactive well, an operator must plug it, obtain a plugging extension, or restore it to active status.

Rule 15(e) allows plugging extensions only if five specified criteria are met as follows:

- (1) the Commission or its delegate approves the operator's Application for an Extension of Deadline for Plugging an Inactive Well (Commission Form W-3X);
- (2) the operator has a current organization report;
- (3) *the operator has, and on request provides evidence of, a good faith claim to a continuing right to operate the well;***
- (4) the well and associated facilities are otherwise in compliance with all Commission rules and orders; and
- (5) for a well more than 25 years old, the operator successfully conducts and the Commission or its delegate approves a fluid level or hydraulic pressure test establishing that the well does not pose a potential threat of harm to natural resources, including surface and subsurface water, oil, and gas.⁷

Thus, absent a good faith claim to operate, wells are not eligible for extensions to the plugging requirements in Statewide Rules 14 and 15 according to Statewide Rule 15(e).

The requirements for plugging a well are in Statewide Rule 14(d).⁸ For example, wells are required to be plugged to ensure that all formations bearing usable quality water, oil, gas, or geothermal resources are protected.⁹ Additionally, Statewide Rule 14(d) requires:

The operator shall fill the rathole, mouse hole, and cellar, and shall empty all tanks, vessels, related piping and flowlines that will not be actively used in the continuing operation of the lease within 120 days after plugging work is completed. Within the same 120 day period, the operator shall remove all such tanks, vessels, and related piping, remove all loose junk and trash from the location, and contour the location to discourage pooling of surface water at or around the facility site. The operator shall close all pits in accordance with the provisions of § 3.8 of this title (relating to Water Protection (Statewide Rule 8)).¹⁰

⁷ Emphasis added.

⁸ 16 Tex. Admin. Code § 3.14(d)(1).

⁹ 16 Tex. Admin. Code § 3.14(d).

¹⁰ 16 Tex. Admin. Code § 3.14(d)(12).

In sum, Statewide Rule 14 also requires removal of hydrocarbons, removal of equipment, cleaning of the area, and closing all pits in accordance with the Commission's water protection rule, Statewide Rule 8¹¹.

IV. Discussion of Evidence

Complainant provided one witness and eleven exhibits. Respondent provided one witness and two exhibits.

A. Summary of Complainant's Evidence and Argument

Complainant asserts Respondent does not have a good faith claim because the contractual lease relied on by Respondent has terminated for lack of production. Complainant requests the Commission order the six wells ("Wells") on the Leases to be plugged, the site to be remediated and the associated equipment removed.¹²

Complainant testified as the only witness. Complainant has owned a 388-acre farm where the Wells are located for approximately 23 years. He currently owns the surface and mineral interests of the tracts where the Leases are located. Chan West is the current operator and has been the operator of the Leases for a significant portion of time. There has not been recent production from the Leases. The utility company removed its meter in February 2017, so there has been no electricity on the Leases since then.¹³

Complainant provided a contract dated March 15, 1948, and filed in the deed records of Haskell County on April 8, 1948.¹⁴ This contractual lease ("Contractual Lease") covers Complainant's 388-acre farm and is relied on by Respondent for the right to operate the Wells. The Contractual Lease has a ten-year primary term and then so long thereafter as there are active operations with no cessation of more than 30 consecutive days.¹⁵

Complainant provided query results from the Commission's RRC Online System showing Respondent's organization status at the Commission is delinquent.¹⁶

Complainant provided excerpts from the Commission's proration schedule effective August 1, 2018, and a map from the Commission's Public GIS Viewer identifying the Wells and showing their location on Complainant's property. Complainant also testified there is a tank battery on the Leases.¹⁷

Complainant provided Commission production records for the Leases. Lease 02160 is comprised of three wells, Well Nos. 3, 4 and 12, and has had no reported

¹¹ See Tex. Admin. Code § 3.8.

¹² See, e.g., Complainant Ex. 1; Tr. at 18-19.

¹³ Complainant Ex. 1-2, 11; Tr. at 18-26.

¹⁴ Complainant Ex. 3.

¹⁵ Tr. at 26-27; Complainant Ex. 3, ¶¶ 2, 5.

¹⁶ Complainant Ex. 4; Tr. at 27-28.

¹⁷ Complainant Ex. 5-6; Tr. at 28-30.

production since January 2017.¹⁸ Lease 13029 has two wells, Well Nos. 3WS and P5, and has had no reported production since January 2017.¹⁹ Lease 08233 has only one well, Well No. 5, and has had no reported production since December 1999.²⁰

Complainant provided testimony and pictures regarding the current condition of the property. The pictures show a substantial amount of remaining equipment, lack of necessary electricity (the electricity service was terminated due to non-payment of a delinquent bill) and overgrowth. Complainant also testified there is contamination on the property, and the pictures do appear to show contamination of soil.²¹

B. Summary of Respondent's Evidence and Argument

Mr. Chaudhary was Respondent's only witness. He testified the Leases are in compliance with Commission rules. However, he acknowledges that Commission Staff has (1) sent him letters regarding compliance issues in the past, (2) has told him to clean the Leases and (3) has declined to renew his authorization to conduct oil and gas exploration operations in Texas.²²

V. Examiners' Analysis

The Examiners recommend the Complainant's request for relief be granted. The Examiners recommend the Commission find there was no reasonably satisfactory showing of a good faith claim to operate the Wells, and the Wells should be ordered plugged.

Complainant alleges Respondent does not have a good faith claim to operate the Wells. A good faith claim is defined in Commission rule 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.²³

According to Commission records, there has been no production from the Leases since January 2017. The Contractual Lease requires continual operations after the primary term, and the primary term ended in 1958. Respondent provided no evidence to dispute that it is bound by the terms in the Contractual Lease. Respondent provided no evidence of any operations, nor does Respondent claim there have been any operations since January 2017.

¹⁸ Complainant Ex. 5-7; Tr. at 31-32.

¹⁹ Complainant Ex. 5-6, 8; Tr. at 32.

²⁰ Complainant Ex. 5-6, 8; Tr. at 33.

²¹ Complainant Ex. 1, 10-11; Tr. at 34-40.

²² Tr. at 45-53; see also Complainant Ex. 5 (showing severances, and lack of compliant with Statewide Rule 14(b), 16 Tex. Admin. Code § 3.14(b)).

²³ 16 Tex. Admin. Code § 3.15(a)(5).

Respondent's only defense is a claim that it is in compliance with Commission rules. However, Commission records showing Respondent's status with the Commission as delinquent as well as violations of Statewide Rule 14 contradict Respondent's claim.

Even if Respondent were in compliance with Commission rules, that does not demonstrate Respondent has a good faith claim. A good faith claim goes to whether the operator has a colorable claim of right to operate the wells at issue. Respondent provided none. Complainant provided evidence that the Contractual Lease Respondent relies on has terminated.

For these reasons, the Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells and order Respondent to plug the Wells in accordance with Commission rules.

VI. Recommendation, Proposed Findings of Fact and Proposed Conclusions of Law

The Examiners recommend the Commission adopt the following findings of fact and conclusions of law.

Findings of Fact

1. George Christian ("Complainant") filed complaints claiming Chan West Oil Corporation ("Respondent" or "Chan West") does not have a good faith claim to operate the following leases ("Leases") in Haskell County:
 - a. The Taylor, L.F. (02160) Lease in the Sojourner (Bursen) Field,
 - b. The Taylor, L.F. (13029) Lease in the Sojourner (Strawn) Field, and
 - c. The Sojourner (02833) Lease in the Sojourner Field.
2. Complainant owns the mineral interests and surface estate where the six wells on the Leases are located. Complainant requests the Commission order the six wells ("Wells") on the Leases to be plugged, the site to be remediated and the associated equipment removed.
3. Respondent is the Commission operator of record for the Leases.
4. On July 31, 2018, the Hearings Division of the Commission sent a Notice of Hearing ("Notice") to Complainant and Respondent setting a hearing date of September 4, 2018. Consequently, the parties received more than 10 days' notice. The Notice contains (1) a statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the matters asserted. The hearing was held on September 4, 2018, as noticed. Complainant and Respondent appeared and participated at the hearing.

5. A contract dated March 15, 1948 and filed in the deed records of Haskell County on April 8, 1948 ("Contractual Lease") covers Complainant's 388-acre farm. The Contractual Lease is relied on by Respondent for the right to operate the Wells. The Contractual Lease has a ten-year primary term and then so long thereafter as there are active operations with no cessation of more than 30 consecutive days.
6. There has been no production from the Lease since January 2017.
7. The utility company removed its meter in February 2017, so there has been no electricity on the Leases thereafter.
8. There is no evidence of operations on the Wells since January 2017.
9. The surface area of the tracts comprising the Leases contains Respondent's equipment and what appears to be contamination from Respondent's operations.
10. Respondent failed to provide a reasonably satisfactory showing that the Contractual Lease has not terminated for lack of production.
11. Respondent failed to demonstrate a reasonably satisfactory showing of a good faith claim to a continuing right to operate the Wells.
12. Absent a "good faith claim" to operate, the Wells are not eligible for extensions to the plugging requirements in Statewide Rule 14 and 15 as provided for in Statewide Rule 15(e).
13. Any plugging extensions for the Wells should be canceled and the Wells should be plugged.

Conclusions of Law

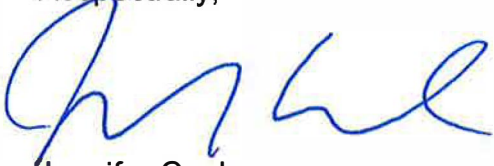
1. Proper notice of hearing was timely issued to persons entitled to notice. *See, e.g.,* Tex. Gov't Code §§ 2001.051, 052; 16 Tex. Admin. Code §§ 1.42, 1.45.
2. The Commission has jurisdiction in this case. *See, e.g.,* Tex. Nat. Res. Code § 81.051.
3. The Wells are inactive wells as that term is defined in Commission rule. 16 Tex. Admin. Code § 3.15(a)(6).
4. Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells. 16 Tex. Admin. Code § 3.15(a)(5).
5. The Wells are not eligible for plugging extensions. 16 Tex. Admin. Code § 3.15(e).
6. The Wells should be plugged. 16 Tex. Admin. Code §§ 3.14 and 3.15.

7. Chan West is responsible for plugging the Wells. See, e.g., 16 Tex. Admin. Code § 3.58(a)(2).

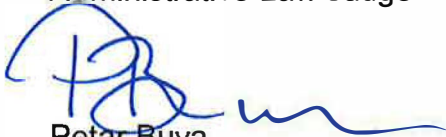
Recommendations

The Examiners recommend the Commission find Respondent failed to provide a reasonably satisfactory showing of a good faith claim to operate the Wells and grant Complainant's request to have the Wells ordered plugged in accordance with Commission rules.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Jennifer Cook', written in a cursive style.

Jennifer Cook
Administrative Law Judge

A handwritten signature in blue ink, appearing to read 'Petar Buva', written in a cursive style.

Petar Buva
Technical Examiner