



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

Second Amended 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
Amended Proposals for Decision:	August 30, 2018 October 16, 2018

Heard by:

Clayton J. Hoover,
Administrative Law Judge
Robert Musick, P.G.
Technical Examiner

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.

This area is part of the East Texas Field which began producing oil in the 1930's and also part of the White Oak (Cotton Valley Sand) Field, which has been producing gas since the mid-1990's. When the deeper gas wells were drilled, extensive work was done to form gas units and to include prior existing leases dating back to the beginning of the East Texas Field. Oil production from the East Texas Field has declined in the last few decades. As the oil production has declined, lessees have been relying on the deep gas production to maintain the underlying leases in existence.

It is well established in Texas that operations and production anywhere on a pooled unit will be considered as if the production or operations took place on each of the leases included in the unit for purposes of extending such leases in their secondary term.¹ The net effect in this docket, with respect to the seven (7) units at issue, is that the leases included in the gas units may have been extended by gas production even if the oil production ceased.

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.² 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. Her contention was that the lease designated as the "George Jones Lease" could not be valid because it was executed after the death of George Jones. However, certified copies of the documents admitted into evidence and set out below in the Findings of Fact demonstrate that the lease was properly executed by the heirs of George Jones and properly filed with the County Clerk of Gregg County, and subsequently amended by various owners at the time the gas units were formed around 1994.

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.³

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.

¹ Smith and Weaver, Texas Law of Oil and Gas, Section 4.8

² See Christian Exhibits 1, 2 and 3

³ See Respondent Exhibits 3-9

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.⁴ Her contention was that the lease designated as the “George Jones Lease” could not be valid because it was executed after the death of George Jones. However, certified copies of the documents admitted into evidence and set out below in the Findings of Fact demonstrate that the lease was properly executed by the heirs of George Jones and properly filed with the County Clerk of Gregg County, and subsequently amended by various owners at the time the gas units were formed around 1994.

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.⁵ 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).⁶

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 properly executed by legitimate mineral owners, properly filed in the office of the County Clerk of Gregg County and properly included in the designations.

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

⁴ See Christian Exhibits 1, 2 and 3

⁵ Trns. pg 17, ln 3- pg 69, ln 15

⁶ See Respondent Exhibits 1-13

or rights of possession. These questions must be settled in the courts.”⁷ 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.”⁸

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.

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 of 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 properly executed by legitimate mineral owners, properly filed in the office of the County Clerk of Gregg County and properly included in the designations.

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.

The testimony of Breitburn’s witness that the George Jones mineral interest was properly leased and that Breitburn holds a good faith title was not controverted by the Complainant; Debra Christian admitted this in cross examination.⁹

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:

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. On or about November 29, 2017, Breitburn filed an answer to the complains.
2. Christian claims to be a mineral and royalty owner in the Units.

⁷ Magnolia Petroleum Co. v. Railroad Commission, 170 S.W. 2d 189, 191 (Tex. 1943)

⁸ Id. At 191

⁹ Transcript Pg 23 Lines 18-24; g 63, Lines 7-17Pg 88 line 15 to Pg 89 line 23

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 properly executed by legitimate mineral owners, properly filed in the office of the County Clerk of Gregg County and properly included in the designations and were properly described.

The McHaney-Loeb Unit

10. On or about September 29, 1994, CW Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated September 29, 1994, certifying pooling authority for the McHaney-Loeb Unit, inclusive of 154.37 acres containing thirteen tracts of land.¹⁰
11. On November 2, 1994, Wagner & Brown, Ltd. executed and subsequently filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 154.37 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the base of the Cotton Valley Sand Formation.¹¹
12. Wagner & Brown, Ltd., also executed a First Amended Declaration of Unitization and Designation of Gas Unit amending the original Declaration to include additional oil, gas, and mineral leases, and exclude acreage, allocated to the unit. The First Amended Declaration is filed of record with the County Clerk of Gregg County, Texas.¹²
13. Wagner & Brown, Ltd. also executed a Second Amended Declaration of Unitization and Designation of Gas Unit amending the original Declaration to include additional oil, gas,

¹⁰ Breitburn Exhibit 3C.

¹¹ Breitburn Exhibit 3G.

¹² Breitburn Exhibit 3H.

and mineral leases allocated to the unit, which is also is filed of record with the County Clerk of Gregg County, Texas.¹³

14. In addition to other interests, the interests covered by the following oil, gas, and mineral leases and amendments are pooled into the McHaney-Loeb Unit as described in the Declaration of Unitization and Designation of Gas Unit, the First Amended Declaration of Unitization and Designation of Gas Unit, and the Second Amended Declaration of Unitization and Designation of Gas Unit:
15.
 - a. an oil and gas lease dated February 1, 1994, recorded in Volume 2629, Page 629, Official Records, Gregg County, Texas, from Henry G. Laub, Trustee of the Betty Laub Trust, as lessor, to C W Resources, Inc., as lessee, covering 15 acres of land, more or less, for a one year primary term.
 - b. a lease amendment executed October 18, 1993, recorded in Volume 2641, Page 43, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated November 30, 1930, recorded in Volume 63, Page 101, Official Records, Gregg County, Texas; and
 - c. an oil and gas lease dated November 30, 1930, recorded in Volume 63, Page 101, Official Records, Gregg County, Texas, from Callie Jones et al., as lessors, to E. E. Terry and W.M. Langston, as lessees, covering 100 acres of land, more or less, for a ten year primary term; ¹⁴
16. Gas production from the McHaney-Loeb Unit has been continuous and uninterrupted since at least January 1995.¹⁵
17. Breitburn is the operator of record for the McHaney-Loeb Gas Unit, Well No. 1 (154062) and Well No. 2 (194736), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.¹⁶

The Shiloh School Unit

18. Wagner & Brown, Ltd. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated January 21, 2004, certifying pooling for the Shiloh School Unit, inclusive of 450.8597 acres containing twenty-one tracts of land.¹⁷
19. Wagner & Brown, Ltd., also executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling

¹³ Breitburn Exhibit 3I.

¹⁴ Breitburn Exhibits 3J-1, 3J-2, and 3K.

¹⁵ Direct Testimony of Christopher Jordan, Transcript at 70:9-23.

¹⁶ *Id.*

¹⁷ Breitburn Exhibit 4C.

amendments thereof, covering 450.8597 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the deepest drilled in the C W Resources, Inc. – Shiloh School Well No. 1. The Declaration is filed of record in Gregg County, Texas.¹⁸

20. The oil and gas lease dated February 3, 1995, recorded in Volume 2807, Page 284, Official Records, Gregg County, Texas, from Shiloh Baptist Church, as lessor, to C W Resources, Inc., as lessee, covering 2.6797 acres of land, more or less, for a three year primary term, is pooled into the Shiloh School Unit as described in the Declaration of Unitization and Designation of Gas Unit.¹⁹
21. Gas production from the Shiloh School Unit has been continuous and uninterrupted since at least February 1996.²⁰
22. Breitburn is the operator of record for the Shiloh School Gas Unit, Well No. 1 (157969), Well No. 2 (184454), Well No. 3 (197071), Well No. 4 (199485), Well No. 5 (213419), and Well No. 6 (224651), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.²¹

The B.C. Christian Unit

23. C W Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority (“Form P-12”) dated October 7, 1994, certifying pooling authority for the B.C. Christian Unit, inclusive of 80 acres containing two tracts of land.²²
24. Wagner & Brown, Ltd., subsequently executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 80 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the deepest drilled in the C W Resources, Inc. – B.C. Christian Well No. 1. The Declaration is filed of record in Gregg County, Texas.²³
25. In addition to other interests, the interests covered by the following oil, gas, and mineral leases and amendments are pooled into the B.C. Christian Unit as described in the Declaration of Unitization and Designation of Gas Unit:
 - a. a lease amendment executed February 1, 1994, recorded in Volume 2630, Page 82, Official Records, Gregg County, Texas, granting lessee pooling authority for the

¹⁸ Breitburn Exhibit 4K.

¹⁹ Breitburn Exhibits 4L-1 and 4L-2.

²⁰ Transcript at 70:9-23.

²¹ *Id.*

²² Breitburn Exhibit 5C.

²³ Breitburn Exhibit 5F.

oil and gas lease dated January 13, 1931, recorded in Volume 65, Page 142, Official Records, Gregg County, Texas.²⁴

- b. an oil and gas lease dated January 13, 1931, recorded in Volume 65, Page 142, Official Records, Gregg County, Texas, from B.C. and Julia Christian, as lessors, to W.E. Jones, as lessee, covering 119 acres of land, more or less, for a ten year primary term;
 - c. a lease amendment executed January 20, 1994, recorded in Volume 2693, Page 465, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas;
 - d. an oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas, from Randle and Lujengr Christian, as lessors, to W. E. Jones, as lessee, covering 119 acres of land, more or less, for an undeterminable primary term;
26. Gas production from the B.C. Christian Unit has been continuous and uninterrupted since at least May 1995.²⁵
27. Breitburn is the operator of record for the Christian, B.C. Gas Unit, Well No. 1 (154970), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.²⁶

The Randle Christian Unit

28. C W Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated October 7, 1994, certifying pooling authority for the Randle Christian Unit, inclusive of 80 acres containing two tracts of land.²⁷
29. Wagner & Brown, Ltd., executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 93.5 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the base of the Cotton Valley Sand Formation. The Declaration is filed of record in Gregg County, Texas.²⁸
30. Wagner & Brown, Ltd., subsequently executed and filed a First Amended Declaration of Unitization and Designation of Gas Unit amending the original Declaration to exclude

²⁴ Breitburn Exhibits 5G-1, 5G-2, 5H-1, and 5H-2.

²⁵ Transcript at 70:9-23.

²⁶ *Id.*

²⁷ Breitburn Exhibit 6C.

²⁸ Breitburn Exhibit 6-F1

acreage allocated to the unit, which is filed of record with the County Clerk of Gregg County, Texas.²⁹

31. The following oil, gas, and mineral leases and amendments are pooled into the Randle Christian Unit as described in the Declaration of Unitization and Designation of Gas Unit and the First Amended Declaration of Unitization and Designation of Gas Unit:
- a. a lease amendment executed January 20, 1994, recorded in Volume 2693, Page 465, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas.³⁰
 - b. an oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas, from Randle and Lujengr Christian, as lessors, to W.E. Jones, as lessee, covering 119 acres of land, more or less, for an undeterminable primary term;
 - c. a lease amendment executed November 17, 1994, recorded in Volume 2767, Page 433, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated December 1, 1930, recorded in Volume 63, Page 282, Official Records, Gregg County, Texas;
 - d. an oil and gas lease dated December 1, 1930, recorded in Volume 63, Page 282, Official Records, Gregg County, Texas, from J.E. Christian, as lessor, to W.E. Jones, as lessee, covering 33.5 acres of land, more or less, for a ten year primary term;
32. Production from the Randle Christian Unit has been continuous and uninterrupted since at least September 1994.³¹
33. Breitburn is the operator of record for the Christian, Randle Gas Unit, Well No. 1 (151843), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.³²

The J.M. Christian Unit

34. C W Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated January 15, 1996, certifying pooling authority for the J.M. Christian Unit, inclusive of 380.34 acres containing nineteen tracts of land.³³
35. Wagner & Brown, Ltd., executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 382.415 acres, for the production of gas from 100 feet below the base of

²⁹ Breitburn Exhibit 6-F2.

³⁰ Breitburn Exhibits 6G-1, 6G-2, 6H-1, and 6H-2.

³¹ Transcript at 70:9-23.

³² *Id.*

³³ Breitburn Exhibit 7C.

the Woodbine Formation to 100 feet below the base of the Cotton Valley Sand Formation. The Declaration is filed of record in Gregg County, Texas.³⁴

36. Wagner & Brown, Ltd., subsequently executed a First Amended Declaration of Unitization and Designation of Gas Unit amending the original Declaration to exclude acreage allocated to the unit. The First Amended Declaration is filed of record with the County Clerk of Gregg County, Texas.³⁵
37. The following oil, gas, and mineral leases and amendments are pooled into the J.M. Christian Unit as described in the Declaration of Unitization and Designation of Gas Unit and the First Amended Declaration of Unitization and Designation of Gas Unit:
 - a. an oil and gas lease dated January 15, 1931, recorded in Volume 68, Page 61, Official Records, Gregg County, Texas, from Willie Anderson, et al as lessors, to A.L. Bruton and George I. McGee, as lessees, covering 13-4/7 acres of land, more or less, for a ten year primary term;
 - b. an oil and gas lease dated January 8, 1931, recorded in Volume 65, Page 51, Official Records, Gregg County, Texas, from Emmett Anderson, as lessor, to W.E. Jones, as lessee, covering 37 acres of land, more or less, for a ten year primary term.
38. Production from the J.M. Christian Unit has been continuous and uninterrupted since at least January 1995.³⁶
39. Breitburn is the operator of record for the Christian, J.M. Gas Unit, Well No. 2 (157574), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.³⁷

The Anderson-Christian Unit

40. C W Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated March 19, 1999, certifying pooling authority for the Anderson-Christian Unit, inclusive of 174.53 acres containing twelve tracts of land.³⁸
41. Wagner & Brown, Ltd., executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 174.53 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the base of the Cotton Valley Sand Formation. The Declaration is filed of record with the County Clerk of Gregg County, Texas.³⁹

³⁴ Breitburn Exhibit 7F-1.

³⁵ Breitburn Exhibit 7F-2.

³⁶ Transcript at 70:9-23.

³⁷ *Id.*

³⁸ Breitburn Exhibit 8C.

³⁹ Breitburn Exhibit 8F.

42. The following oil, gas, and mineral leases and amendments are pooled into the Anderson-Christian Unit as described in the Declaration of Unitization and Designation of Gas Unit:
- a. a lease amendment executed February 1, 1994, recorded in Volume 2630, Page 82, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated January 13, 1931, recorded in Volume 65, Page 142, Official Records, Gregg County, Texas.⁴⁰
 - b. an oil and gas lease dated January 13, 1931, recorded in Volume 65, Page 142, Official Records, Gregg County, Texas, from B.C. and Julia Christian, as lessors, to W.E. Jones, as lessee, covering 119 acres of land, more or less, for a ten year primary term;
 - c. a lease amendment executed November 2, 1994, recorded in Volume 2756, Page 29, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated September 6, 1930, recorded in Volume 62, Page 462, Official Records, Gregg County, Texas;
 - d. an oil and gas lease dated September 6, 1930, recorded in Volume 62, Page 462, Official Records, Gregg County, Texas, from J.M. Christian, as lessor, to B.A. Skipper, as lessee, covering 33-1/3 acres of land, more or less, for a five year primary term;
 - e. a lease amendment executed January 20, 1994, recorded in Volume 2693, Page 465, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas;
 - f. an oil and gas lease dated January 7, 1931, recorded in Volume 65, Page 89, Official Records, Gregg County, Texas, from Randle and Lujengr Christian, as lessors, to W.E. Jones, as lessee, covering 119 acres of land, more or less, for an undeterminable primary term;
 - g. a lease amendment dated November 2, 1994, recorded in Volume 2756, Page 29, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease dated September 6, 1930, recorded in Volume 64, Page 123, Official Records, Gregg County, Texas;
 - h. an oil and gas lease dated September 6, 1930, recorded in Volume 64, Page 123, Official Records, Gregg County, Texas, from J.M. Christian, as lessor, to B.A. Skipper, as lessee, covering 37 acres of land, more or less, for a five year primary term;
 - i. a lease amendment executed September 26, 1994, recorded in Volume 2756, Page 92, Official Records, Gregg County, Texas, granting lessee pooling authority for

⁴⁰ Breitburn Exhibits 8G, 8H-1, 8H-2, 8I-1, 8I-2, 8J-1, 8J-2, 8K-1, 8K-2, 8L-1, and 8L-2.

the oil and gas lease dated January 20, 1931, recorded in Volume 64, Page 273, Official Records, Gregg County, Texas;

- j. an oil and gas lease dated January 20, 1931, recorded in Volume 64, Page 273, Official Records, Gregg County, Texas, from Lillie and Tom Willis, as lessors, to H.F. Worley, as lessee, covering 13-4/7 acres of land, more or less, for a ten year primary term;
- k. an oil and gas lease dated May 11, 1993, recorded in Volume 2553, Page 4, Official Records, Gregg County, Texas, from Edmund M. Key, as lessor, to C W Resources, Inc., as lessee, covering 13.57 acres of land, more or less, for a one year primary term;

- 43. Production from the Anderson-Christian Unit has been continuous and uninterrupted since at least September 1994.⁴¹
- 44. Breitburn is the operator of record for the Anderson-Christian Gas Unit, Well No. 2 (172782), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.⁴²

The Stuckey-Thrasher Unit

- 45. C W Resources, Inc. filed with the Commission a Form P-12 Certificate of Pooling Authority ("Form P-12") dated March 3, 1998, certifying pooling authority for the Stuckey-Thrasher Unit, inclusive of 302.42 acres containing seven tracts of land.⁴³
- 46. Wagner & Brown, Ltd. executed and filed a Declaration of Unitization and Designation of Gas Unit unitizing numerous oil, gas, and mineral leases, including pooling amendments thereof, covering 302.42 acres, for the production of gas from 100 feet below the base of the Woodbine Formation to 100 feet below the base of the Cotton Valley Sand Formation. The Declaration is filed of record in Gregg County, Texas.⁴⁴
- 47. The Stuckey-Thrasher Unit as described in the Declaration of Unitization and Designation of Gas Unit specifically included an oil and gas lease dated January 17, 1931, recorded in Volume 64, Page 282, and corrected in Volume 65, Page 462, Official Records, Gregg County, Texas, from S.R. Thrasher et al., as lessors, to S.A. Guiberson, Jr., as lessee, covering 120 acres of land, more or less, for a ten year primary term; which was amended by a lease amendment dated January 18, 1957, recorded in Volume 520, Page 251, Official Records, Gregg County, Texas, granting lessee pooling authority for the oil and gas lease

⁴¹ Transcript at 70:9-23.

⁴² *Id.*

⁴³ Breitburn Exhibit 9C.

⁴⁴ Breitburn Exhibit 9G.

dated January 17, 1931, recorded in Volume 64, Page 282, and corrected in Volume 65, Page 462, Official Records, Gregg County, Texas.⁴⁵

- 48. Production from the Stuckey-Thrasher Unit has been continuous and uninterrupted since at least January 1994.⁴⁶
- 49. Breitburn is the operator of record for the Stuckey-Thrasher Gas Unit, Well No. 2 (167387) and Well No. 3 (173003), White Oak (Cotton Valley Sand) Field, Gregg County, Texas.⁴⁷

Assignments and Conveyances

- 50. By a document dated December 22, 2003, recorded as Instrument No. 200331586, Official Records, Gregg County, Texas, Wagner & Brown, Ltd. conveyed all of its right, title, and interest in and to the Units to WB Resources, L.P.⁴⁸
- 51. As shown in a Certificate of Amendment, dated September 27, 2005, WB Resources, L.P. changed its corporate name to ONEOK Texas Energy Resources, LP.⁴⁹
- 52. By a document dated April 7, 2004, recorded as Instrument No. 200408403, Official Records, Gregg County, Texas, and pursuant to a Certificate of Amendment, ONEOK Texas Energy Resources, LP changed its corporate name to TXOK Texas Energy Resources, LP.⁵⁰
- 53. In a document dated February 4, 2008, recorded as Instrument No. 200803101, Official Records, Gregg County, Texas, TXOK Texas Energy Resources, LP merged with and into EXCO Partners Operating Partnership, LP.⁵¹
- 54. As reflected in a document dated July 7, 2008, recorded as Instrument No. 200817089, Official Records, Gregg County, Texas, and pursuant to a Certificate of Amendment, EXCO Partners Operating Partnership, LP changed its corporate name to EXCO Operating Company, LP.⁵²
- 55. In a document dated August 11, 2009, recorded as Instrument No. 200917041, Official Records, Gregg County, Texas, EXCO Operating Company, LP conveyed all of its right, title, and interest in and to the Units to Encore Operating, LP.⁵³

⁴⁵ Breitburn Exhibits 9H-1, 9H-2, and 9H-3.

⁴⁶ Transcript at 70:9-23.

⁴⁷ *Id.*

⁴⁸ *See* Breitburn Ex. 10.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

- 56. In a document dated May 14, 2010, recorded as Instrument No. 201011682, Official Records, Gregg County, Texas, Encore Operating, LP conveyed all of its right, title, and interest in and to the Units to Quantum Resources A-1, LP; Black Diamond Resources, LLC; QAC Carried WI, LP; and QAB Carried WI, LP.⁵⁴
- 57. In a document dated September 30, 2011, recorded as Instrument No. 201120064, Official Records, Gregg County, Texas, Quantum Resources A-1, LP; Black Diamond Resources, LLC; QAC Carried WI, LP; and QAB Carried WI, LP conveyed all of its right, title, and interest in and to the Units to QRE Operating, LLC.⁵⁵
- 58. As reflected in the Certificate of Merger dated April 5, 2018, QRE Operating, LLC et al. merged with and into to Breitburn Operating L.P.⁵⁶

Good Faith Claim

- 59. As defined in 16 Tex. Admin. Code § 3.15(5), a “good faith claim” is “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.”⁵⁷
- 60. Complainant did not present evidence sufficient to establish a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate in and under any tract of land included within the Units.⁵⁸
- 61. Complainant did not present evidence sufficient to establish an interest in any currently valid oil and gas lease covering any interest included within the Units.⁵⁹
- 62. Complainant did not present evidence sufficient to establish an interest in any recorded deed conveying a fee interest in the mineral estate in and under any tract of land included within the Units.⁶⁰
- 63. Complainant does not have a good faith claim to any continuing possessory right in the mineral estate in and under any tract of land included within the Units.⁶¹

⁵⁴ Breitburn Exhibit 11.

⁵⁵ Breitburn Exhibit 12.

⁵⁶ Breitburn Exhibit 13.

⁵⁷ 16 TEX. ADMIN. CODE § 3.15(5).

⁵⁸ Christian Exhibits P-1, P-2, and P-3.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

64. Breitburn presented evidence sufficient to establish a factually supported claim based on a recognized legal theory to a continuing possessory right in the mineral estate in and under the subject tracts of land included within the Units.⁶²

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

⁶² Breitburn Exhibit Series 3, 4, 5, 6, 7, 8, and 9; Breithburn Exs. 10, 11, and 12.