

**IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

Robert Post Johnson, and A.V.M. Inc., )  
*Plaintiffs and* )  
Appellants, )

vs. )

Supreme Court Case No. 20180050

Statoil Oil & Gas LP, formerly known )  
as Brigham Oil & Gas LP, Missouri )  
Basin Well Service, Inc., MBI Oil and )  
Gas, LLC, Northern Energy )  
Corporation, Sunshine Pacific Corp., )  
Stewart Geological, Inc., Brent Clum, )  
Earthstone Energy, Inc., Vincent )  
Melashenko, Hill L.P., LGFE-J L.P., )  
Reef 2011 Private Drilling Fund, L.P., )  
Missouri River Royalty Corporation, )  
Rainbow Energy Marketing )  
Corporation, United Energy Trading, )  
LLC, Abaco Energy, L.L.C., Wolfe )  
Exploration LLC, Joe Wolfe, Global )  
Gas & Oil, L.L.C., SourceRock )  
Exploration, LLC, Cody Oil & Gas )  
Corporation, David Peterson, Slawson )  
Exploration Company, Inc., Hess )  
Bakken Investments II, LLC, and )  
LGFE-M L.P., )

McKenzie County District Court Case  
No. 27-2014-CV-00286

*Defendants and* )  
Appellees. )

Appeal from Judgment Entered on December 7, 2017  
Case No. 27-2014-CV-00286  
County of McKenzie, Northwest Judicial District  
The Honorable Robin A. Schmidt, Presiding

**BRIEF OF APPELLEE STEWART GEOLOGICAL, INC.**

Pearce Durick PLLC

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Stewart Geological Inc.***

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## **I. Statement of the Issue Presented for Review**

¶1 For a lease that stays in force beyond its primary term if there is either “production” or “drilling operations,” can a Pugh Clause that does not mention drilling operations terminate the lease as to tracts on which drilling operations occurred?

## **II. Statement of the Case**

¶2 Stewart Geological adopts the *Statement of the Case* as set forth in the *Brief of Appellee Statoil & Gas LP* (“Statoil’s Brief”) filed with this court.

## **III. Statement of the Facts**

¶3 Stewart Geological generally adopts the *Statement of the Facts* as set forth in Statoil’s Brief, but makes two points. One, the two oil and gas leases in question were issued in 2008 by Appellants to Missouri Basin Well Service, Inc. *Appellants Appx.* at 368, 370. In 2010, Missouri Basin assigned interests in those leases to a number of persons and entities, including Stewart Geological. Dist. Ct. Dkt. Nos. 117 (*Affidavit of Michael D. Schoepf*) and 120 (*Assignment of Oil and Gas Leases*). Stewart Geological thus owns an interest under the leases and has an interest in their proper interpretation. Two, drilling operations, as defined by the leases, did occur on all tracts Appellants assert are no longer subject to the leases. Dist. Ct. Dkt. Nos. 143-163 (*Second Affidavit of Michael D. Schoepf* with Exhibits 1-20). The record includes a timeline with information on wells spud, wells completed, and dates of production from April 22, 2011, the end of the primary term for the first lease issued, up to early 2016. Dist. Ct. Dkt. No. 164 (Exhibit 21 to *Second Affidavit of Michael D. Schoepf*).

#### **IV. Standard of Review**

¶4 Stewart Geological adopts the *Standard of Review* in Statoil's Brief.

#### **V. Argument**

¶5 Stewart Geological adopts the arguments made in Statoil's Brief in support of the District Court's decision and in response to Robert Post Johnson and A.V.M., Inc.'s *Brief of Appellants*.

#### **VI. Conclusion**

¶6 The District Court should be affirmed.

Signed this 29th day of May, 2018.

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Stewart Geological, Inc.**

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| Robert Post Johnson, and A.V.M. Inc.,          | ) |                                |
|  | ) |                                |
| Plaintiffs,                                    | ) |                                |
|  | ) |                                |
| vs.  | ) | Supreme Court Case No.:        |
|  | ) | 20180050                       |
| Statoil Oil & Gas LP, formerly known as        | ) |                                |
| Brigham Oil & Gas LP, Missouri Basin Well      | ) |                                |
| Service, Inc., MBI Oil and Gas, LLC,           | ) | McKenzie County District Court |
| Northern Energy Corporation, Sunshine          | ) | Case No. 27-2014-CV-00286      |
| Pacific Corp., Stewart Geological, Inc., Brent | ) |                                |
| Clum, Earthstone Energy, Inc., Vincent         | ) |                                |
| Melashenko, Hill L.P., LGFE-J L.P., Reef       | ) | <b>CERTIFICATE OF SERVICE</b>  |
| 2011 Private Drilling Fund, L.P., Missouri     | ) |                                |
| River Royalty Corporation, Rainbow Energy      | ) |                                |
| Marketing Corporation, United Energy           | ) |                                |
| Trading, LLC, Abaco Energy, L.L.C., Wolfe      | ) |                                |
| Exploration LLC, Joe Wolfe, Global Gas &       | ) |                                |
| Oil, L.L.C., SourceRock Exploration, LLC,      | ) |                                |
| Cody Oil & Gas Corporation, David Peterson,    | ) |                                |
| Slawson Exploration Company, Inc., Hess        | ) |                                |
| Bakken Investments II, LLC, LGFE-M L.P.,       | ) |                                |
|  | ) |                                |
| Defendants.                                    | ) |                                |

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[1] I certify that on the 29th day of May, 2018, I electronically filed with the Clerk of the North Dakota Supreme Court, the following document.

1. Brief of Appellee Stewart Geological, Inc.

and that on May 29, 2018, I served the same by electronic mail upon the following:

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Geological, Inc.*

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STATE OF NORTH DAKOTA**

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