



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: LPG LAND LITIGATION

Civil Action No. 15-C-4000

THIS DOCUMENT APPLIES TO ALL CASES

**ORDER REGARDING PLAINTIFFS' MOTION TO REPLACE EXPERT
AND AMENDMENT TO MAY 15, 2015 CASE MANAGEMENT ORDER**

The Court has reviewed *Plaintiffs' Motion to Replace an Expert Who Recently Disclosed a Conflict and For a Brief Period of Time to Supplement the Disclosure of the Now-Designated Replacement Witness* (Transaction ID 57657534), *Defendants' Joint Response to Plaintiffs' Motion to Replace Expert and Motion to Strike Plaintiffs' Expert Disclosure* (Transaction ID 57702291) and *Plaintiffs' Reply to Defendants' Joint Response to Plaintiffs' Motion to Replace Expert and Motion to Strike Plaintiffs' Expert Disclosure* (Transaction ID 57714384).

Having conferred with one another to insure uniformity of their decision, as contemplated by West Virginia Trial Court Rule 26.07(a), the Court **FINDS:**

1. Good cause has been shown to replace Plaintiffs' expert who recently disclosed a conflict, and there will be no prejudice to Defendants if Plaintiffs' are given leave to replace their expert.
2. However, the disclosures contained in Plaintiffs' *Motion To Replace An Expert* and in *Plaintiffs' Corrected Expert Witness Disclosures* filed June 18, 2015 (Transaction ID 57426754) are deficient under the Court's May 15, 2015, *Case Management Order* (Transaction ID 57247571), which requires any party desiring to use an expert witness to furnish opposing counsel with "the specialty of such expert and copies of all reports submitted by such witness, or, if no reports have been submitted, a summary of the substance of such expert's contemplated testimony, in accordance with WVRCP 26(b)(4)." Although Plaintiffs' disclosures state the subject matter on

which their experts are expected to testify, they fail to state the substance of the facts and opinions to which the experts are expected to testify and a summary of the grounds for each opinion.

For the foregoing reasons, the Court **GRANTS** Plaintiffs' motion to replace expert Jennifer Fuller with Gary Winn, and further **GRANTS** Defendants' joint request that Plaintiffs' supplement their Expert Disclosures in full compliance with WVRCP 26(b)(4). Plaintiffs' are **ORDERED** to supplement their Expert Disclosures **no later than September 14, 2015**. Defendants' Expert Disclosure deadline is **November 13, 2015**. Expert Discovery shall be completed **January 8, 2016**. All discovery is closed **February 5, 2016**. All other deadlines in the Court's May 15, 2015, Case Management Order remain in full force and effect.

It is to **ORDERED**.

ENTER: August 21, 2015.

/s/ David W. Hummel, Jr.
Lead Presiding Judge
LPG Land Litigation