

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

JAMES TUCKER; MINDY TUCKER;
RONALD HOLLARS; FRANCES
ANN HOLLARS; PHILLIP BERRY and
PEGGY BERRY

PLAINTIFFS

v. Nos. 1:11-cv-44-DPM
1:11-cv-45-DPM

SOUTHWESTERN ENERGY CO.;
CHESAPEAKE ENERGY CORP.;
and BHP BILLITON PETROLEUM
(FAYETTEVILLE) LLC

DEFENDANTS

ORDER

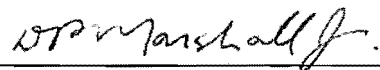
BHP Billiton's motion to quash and for protective order, *Document No. 107*, is granted for good cause shown. The deposition noticed for 14 May 2012 is cancelled. By the current due date, which the Court believes to be 21 May 2012, Plaintiffs should respond as best they can to BHP Billiton's motion. BHP Billiton's reply is due seven calendar days after Plaintiffs respond.

When the Court received BHP Billiton's motion last week, it began considering and researching whether the motion was actually one for summary judgment. The motion seemed a bit long on facts and exhibits. This

may or may not be appropriate in the circumstances; the Court needs some time to decide. After the parties complete their briefing, the Court will address, sooner rather than later, whether Rule 12 or Rule 56 applies. In the mean time, discovery as to BHP Billiton is stayed.

Plaintiffs' emergency motion to stay consideration of BHP Billiton's motion to dismiss, *Document No. 106*, will hang fire. BHP Billiton should file an expedited response by 21 May 2012. Plaintiffs' reply is due seven calendar days after BHP Billiton responds.

So Ordered.



D.P. Marshall Jr.
United States District Judge

11 May 2012