

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

MARVIN and LAURA KAY

PLAINTIFF

v.

No. 4:13-cv-487-DPM

**PEAK WATER SYSTEMS LLC and
FOXBOROUGH ENERGY COMPANY LLC**

DEFENDANTS

ORDER

1. Joint motion to compel, *No 56*, granted in part and denied in part.

Peak and Foxborough are entitled to much of what they seek, though not all. Plaintiffs' supplemental responses due by 15 August 2014. Here are the particulars.

2. Granted as to the expert disclosures.

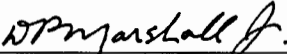
3. Granted as to interrogatories 1, 2, 3, & 9, and mostly denied without prejudice on 7 & 8. Defendants are entitled to the certainty that will be provided by specific lists of documents and people. The injury/damage questions, though, are beyond the scope of phase 1 discovery. Defendants are right that these issues might provide a window on migration. But plaintiffs have said enough for now—it is apparent to the Court that there are no obvious injuries or damages to plaintiffs' property beyond the possible unjust

enrichment from the alleged subsurface trespass. Plaintiffs should supplement by confirming this preliminary assessment. That will be sufficient for now.

4. On the requests for production, Plaintiffs shall supplement as Defendants request on 2, 3, 7, 8 & 20. The joint motion is granted as to those, but denied without prejudice as to 13, for the reasons stated. Injuries/damages can, in general, be on hold beyond the confirming supplement ordered above.

5. Granted as to requests for admission 5, 6, 7, and denied without prejudice as to 11 & 12.

So Ordered.



D.P. Marshall Jr.
United States District Judge

22 July 2014