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

KENNETH JOE MAY; MARY ANN MAY; STEVE SNOWDEN; and CINDY SNOWDEN

PLAINTIFFS

v.

No. 4:13-cv-494-DPM

BHP BILLITON PETROLEUM (Fayetteville) LLC

DEFENDANT

ORDER

- **1.** Joint status report, *№* 134, noted and appreciated. The Court will hold a pretrial.
- 2. Motion for continuance noted and held in abeyance. The Court strives to accommodate counsels' busy schedules while keeping its docket moving efficiently and fairly. This older case has been continued once. It needs resolution. The Court's memory is that the current first-out 4 April 2016 trial date was cleared informally as a "go" with counsel for both sides before it was set. But the Court may be mis-remembering. In any event, because of a crowded docket this spring and summer, the Court's only other first-out slot available is the week of 27 June 2016. If this alternative date works for plaintiffs' counsel, we'll do it then. If not, we'll go as planned on 4 April 2016. BHP does have the benefit of several particularly able lawyers who can try this case.

3. BHP's new motion in limine and new motion for summary judgment are denied. The Court's Fourth Amended Final Scheduling Order did not provide for another round of *limine* motions or another round of dispositive motions. The Court's July 2015 comprehensive Order, № 120, resolved ten such motions-including BHP's omnibus motion in limine (with thirteen embedded motions), BHP's motion to exclude Hite's testimony on Daubert grounds, and BHP's motion to strike Hite's supplemental report. № 120 at 6, & 12–13. The only new material, since the Court ruled, is Hite's correction of two math errors and BHP's rebuttal expert opinion. True, BHP has expanded its Daubert attack, targeting Hite's second supplemental report in particular. But the argumentative core is the same. № 95 at 4–5 & 137 at 10. The Court declines to allow BHP to make another run at Hite, or at judgment as a matter of law, now. We're going to trial.

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Motions, N_{2} 136 & 138, denied. Joint report on the possible June trial date due by 22 January 2016.

So Ordered.

D.P. Marshall Jr.

United States District Judge

15 January 2016