

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. The Court appreciates the parties' suggestions about jury instructions and *voir dire* areas. The Court is attaching its current working drafts of (1) the key parts of the *voir dire*, (2) the preliminary instructions, (3) the final instructions, and (4) the verdicts. As the Court said in the recent telephone conference, the Court has drawn on some draft Texas model instructions. See <http://texasbarbooks.net/proposed-changes-texas-pattern-jury-changes-oil-gas-2015/>.

Please file any objections to the preliminary instructions by noon on Friday, April 1st. There's no need to comment or object yet on the final instructions or the verdicts. We'll work on those drafts throughout the trial. There will be several opportunities to proffer alternatives.

A note. If it's needed, the Court will instruct about depositions when it comes up during trial.

2. Please consider a counter-proposal on opening statements. Twenty minutes a side Monday afternoon to sketch the whole. Then five minutes a side, first thing every morning each day thereafter, to explain the witnesses and proof expected that day. If both sides accept this alternative by noon Friday, we'll do it. If not, we'll have the thirty minute openings on Monday previously ordered.

3. The Court is also considering letting the jurors ask questions. At the end of each witness's testimony, I would ask jurors to write out any question they might have and pass it to me. I would filter their questions for evidentiary problems – with counsel's help, if need be – and then put any proper proposed question to the witness. Counsel for each side could follow up if desired. Please consider this possibility and process. And give the Court your views Monday morning. This proposal is subject to unanimous consent.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

31 March 2016