

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

Neal and Cherlyn Biwer,)	
)	
Plaintiffs,)	Case No. 1:16-cv-00378-DLH-CSM
)	
v.)	
)	
Pecan Pipeline (North Dakota), Inc., and)	
EOG Resources, Inc.,)	
)	
Defendants.)	

SCHEDULING/DISCOVERY PLAN

After conferring, counsel for the parties have agreed upon the following:

1. The parties shall make Rule 26(a)(1) disclosures by February 15, 2017.
2. The issues upon which the parties need to conduct discovery are all claims and defenses set forth in the pleadings.
3. The parties shall have until October 31, 2018, to complete fact discovery and November 30, 2018, to file discovery motions relating to fact discovery. All written discovery requests must be served sufficiently in advance to allow the responses to come due on or before the deadline.
4. The parties shall provide the names of expert witnesses and complete reports under Rule 26(a)(2) as follows:

Plaintiffs: October 31, 2018

Defendants: November 30, 2018

Plaintiffs' Rebuttal: December 14, 2018

5. The parties shall have until January 31, 2019, to complete discovery depositions of expert witnesses.
6. The parties shall have until August 31, 2018, to move to join additional parties.
7. The parties shall have until August 31, 2018, to move to amend pleadings to add claims or defenses.
8. The parties shall have until August 31, 2018, to file other nondispositive motions (e.g. consolidation, bifurcation).
9. The parties shall have until August 1, 2017, to file threshold motions (e.g., jurisdiction, qualified immunity, statute of limitations). Discovery shall not be stayed during the pendency of such motions.
10. The parties shall have until March 1, 2019, to file other dispositive motions (summary judgment as to all or part of the case).
11. Each party shall serve no more than 25 interrogatories, including subparts. No broad contention interrogatories (i.e. "List all facts supporting your claim that...") shall be used.
12. Each side shall take no more than 10 discovery depositions.
13. Depositions taken for presentation at trial shall be completed 10 days before trial.
14. Counsel have discussed between themselves and explored with their clients early involvement in alternative dispute resolution. The following option(s) would be appropriate in this case (choose one):

_____ Arbitration

_____ Mediation

_____ Private mediator

_____ Court-hosted early settlement conference

_____ Early neutral evaluation before (choose one)

_____ Judge other than trial judge

_____ Neutral technical expert

_____ Neutral attorney

_____ Other

 X None: It is too early to determine whether ADR would be appropriate,
but the parties will continue to evaluate the prospects for ADR.

The parties shall be ready to evaluate the case for settlement purposes by January 31, 2019.

15. A mid-discovery status conference would **not** be helpful in this case.
16. The parties will **not** voluntarily waive their rights to proceed before a district judge and consent to have a magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of final judgment.
17. Trial of this case will be by jury.
18. The estimated length of trial is _____ days.

(Remainder of this page purposely left blank)

Dated:

BRAATEN LAW FIRM

By: /s/ Derrick L. Braaten (w/permission)

Derrick L. Braaten (ID # 06394)

David Keagle (ID # 08502)

109 North 4th Street, Suite 100

Bismarck, ND 58501

Telephone: 701-221-2911

Fax: 701-221-5842

Attorneys for Neal and Cherlyn Biwer

Dated:

P e a r c e D u r i c k P L L C

By: /s/ Larry L. Boschee

Larry L. Boschee (ID # 04293)

Charles M. Carvell (ID # 03560)

314 East Thayer Avenue

PO Box 400

Bismarck, ND 58502-0400

Telephone: 701-223-2890

Fax: 701-223-7865

*Attorneys for Pecan Pipeline (North Dakota) Inc.,
and EOG Resources, Inc.*

ORDER

The Court **ADOPTS** the parties' scheduling/discovery plan with the following addition/modification.

9. The parties shall have until August 1, 2018, to file threshold motions (e.g., jurisdiction, qualified immunity, statute of limitations). Discovery shall not be stayed during the pendency of such motions.

IT IS SO ORDERED.

Dated: _____

Charles S. Miller, Jr., Magistrate Judge
United States District Court