

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

TRC ENVIRONMENTAL)	
CORPORATION, A Connecticut Corp.,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-10-62-C
)	
QUODDY BAY LNG, LLC an Oklahoma)	
Limited Liability Company; and DONALD)	
M. SMITH, an individual,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

After a failed business relationship, Plaintiff filed the present action alleging breach of contract and quantum meruit against Defendants. The parties have each filed motions seeking to exclude the others' expert witness. Each motion is brought pursuant to Fed. R. Evid. 702 and Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993), and its progeny. As this matter is now to be tried to the Court rather than the jury, the usual strict standards applying to expert testimony are somewhat relaxed. See Attorney Gen. of Okla. v. Tyson Foods, Inc., 565 F.3d 769, 779 (10th Cir. 2009). When an expert is challenged pursuant to Rule 702 and/or Daubert, the Court's task is to ensure the expert's testimony is reliable. After consideration of the parties' briefs, the Court finds that the proper course is to allow the experts to testify. The challenges raised in the briefs go primarily to the validity of the conclusions reached by the experts rather than the methodology employed. Consequently, they satisfy the basic premise of Rule 702. The Court will consider the

standards set forth by Rule 702 and Daubert when assessing the weight to be given to the expert's testimony. See Tyson Foods, Inc., 565 F.3d at 780.

The Court does offer one caveat – Defendants' expert will only be permitted to refute the conclusions reached by Plaintiff's expert. No other conclusions, theories, or opinions will be heard from Darrell R. Harris.

As set forth more fully herein, Defendants' Motion to Exclude Plaintiff's Expert Witnesses, Kenneth Sibley and Frank Norris, Pursuant to *Daubert* and the Federal Rules of Evidence (Dkt. No. 90) and Plaintiff's Motion to Exclude Testimony of Defendants' Expert (Dkt. No. 100) are DENIED.

IT IS SO ORDERED this 29th day of November, 2011.



ROBIN J. CAUTHRON
United States District Judge