

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

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NORTHERN STATES POWER COMPANY,

Plaintiff,

v.

THE CITY OF ASHLAND, WISCONSIN;  
ASHLAND COUNTY, WISCONSIN;  
and L.E. MYERS COMPANY,

Defendants.  
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ORDER

12-cv-602-bbc

Plaintiff Northern States Power Company has filed a motion seeking leave to file an untimely deposition transcript and to exclude a late-filed supplemental report by Neil Ram, the only expert witness for defendant L.E. Myers. Dkt. #470. Defendant says the supplemental report “updates” Ram’s calculations in order to (1) correct an error from his January 2015 supplemental report; (2) form other calculations based on the possibility that L.E. Myers could be responsible for pollution related to construction of a gas plant (an argument discussed by plaintiff’s expert Kurt Herman in his December 2014 report and by the court in its summary judgment opinion); and (3) respond to adjustments in the calculations from plaintiff’s experts’ supplemental reports filed on March 19, 2015. The adjusted calculations from the March 19 reports are the only new information that would justify this late filing. Ram sets forth his adjusted calculations in various tables that refer to

the March 19 reports. I am allowing only these parts of Ram's new report. Because I am allowing some of the April 3 report, I will also grant plaintiff leave to file Ram's deposition transcript late. The transcript must be filed no later than Tuesday, April 21, 2015.

Although I understand the parties' impulses to respond to each other and to have the last word before trial, the court sets deadlines for supplemental reports and similar filings for a reason. At some point, absent extraordinary circumstances, the parties must accept the universe of evidence at their disposal and move forward to trial. That point has been reached.

#### ORDER

IT IS ORDERED that plaintiff Northern States Power Company's motion for leave to file a deposition transcript after the deadline, dkt. #470, is GRANTED. The deposition transcript must be filed by April 21, 2015. FURTHER IT IS ORDERED that plaintiff's motion to exclude expert Neil Ram's April 3, 2015 supplemental report, dkt. #470, is GRANTED in part and DENIED in part as set forth in this order.

Entered this 16th day of April, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge