

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

FILED
2017 JUN 15
CLERK OF DISTRICT COURT
LOGAN COUNTY
OKLAHOMA
NR

LISA GRIGGS and APRIL MARLER, on
behalf of themselves and other Oklahoma
citizens similarly situated,

Plaintiffs,

Case No. CJ-2017-174

vs.

Hon. Judge Phillip C. Corley

NEW DOMINION LLC,
TNT OPERATING COMPANY, INC,
WHITE OPERATING COMPANY,
RAINBO SERVICE COMPANY,
DRYES CORNER LLC,
CHESAPEAKE OPERATING LLC,
DEVON ENERGY PRODUCTION CO LP,
SPECIAL ENERGY PRODUCTION CO LP,
ORCA OPERATING COMPANY LLC,
WHITE STAR PETROLEUM LLC,
EQUAL ENERGY US INC,
ELDER CRAIG OIL AND GAS LLC,
D&B OPERATING LLC,
M M ENERGY INC,
DAKOTA EXPLORATION LLC,
WICKLUND PETROLEUM CORP,
KIRKPATRICK OIL COMPANY INC,
TOOMEY OIL COMPANY INC,
CHAPARRAL ENERGY LLC,
EASTOK PIPELINE LLC,
MID-CON ENERGY OPERATING LLC,
MIDSTATES PETROLEUM CO LLC,
TERRITORY RESOURCES LLC,
and JOHN DOES 1 through 25,

Defendants.

PLAINTIFFS' OPPOSITION TO MOTIONS TO STAY

COME NOW Lisa Griggs and April Marler, on behalf of themselves and other Oklahoma citizens similarly situated (“Plaintiffs”), and hereby file this brief in opposition to Defendants’ motions to stay, which are based upon 12 O.S. § 2012(B)(8).¹

INTRODUCTION

On February 1, 2018, the Court ordered a telephone conference to be held with all counsel involved in this case, as well as the *Reid* action also currently assigned to Your Honor in Payne County District Court.²

The purpose of the conference call was to discuss the motion to extend the time to respond to the motions to stay filed by Plaintiffs in both *Griggs* and *Reid*. The phone conference was scheduled for 2:00 p.m. on February 5, 2018.

All counsel in both *Griggs* and *Reid* appeared for the conference call at the scheduled time on February 5th. The Court began by saying that it had already made it clear that it intended to grant the motions to stay. Undersigned counsel asked for clarification from the Court, and the Court reiterated that it had already made it known that it intended to stay both *Reid* and *Griggs* in favor of the federal court action, *West*.³ However, the Court said that Plaintiffs in *Reid* and *Griggs* could make whatever record they wished to make, and thereafter, take the matter up on a writ if they wanted to do so. The Court then granted the extensions of time, and all parties agreed to a joint hearing on the motions to stay in *Reid* and *Griggs* in Payne County District Court. The Court set the joint hearing on both motions for March 1st in Stillwater.

¹ This opposition brief is substantially the same as the brief filed by the Plaintiffs in opposition to the motions to stay filed in *Reid v. White Star Petroleum, et al.*, Case No. CJ-2016-543.

² *Reid* refers to a class action case filed originally in Payne County District Court on December 5, 2016, Case No. CJ-2016-543.

³ *West v. ABC Oil, et al.*, Western District of Oklahoma, Case No. 5:16-cv-00264-F, assigned to Judge Stephen P. Friot.

Lead counsel for Plaintiffs in *Griggs* and *Reid* are Scott Poynter of Poynter Law Group in Arkansas, and Curt Marshall of Weitz & Luxenberg in New York. Bill Federman of Federman & Sherwood in Oklahoma City serves as local counsel in *Griggs*, and Chuck Watson of Watson & Watson in Drumright and Keith Ward of Tulsa are local counsel in *Reid*. Importantly, none of these lawyers have anything to do with the *Butler* case assigned to Your Honor. The *Butler*⁴ petition is a copycat complaint, which “cut and pasted” many of the same paragraphs from the *Reid* class petition.⁵

On the other hand, most the defense attorneys in *Butler* are also counsel of record in *Griggs* and/or in *Reid*. Importantly, none of the defense attorneys notified any of the attorneys for Plaintiffs in *Reid* or *Griggs* of the motions to stay filed in *Butler*, nor did they notify the attorneys for Plaintiffs in *Reid* and *Griggs* of the January 4, 2018, hearing in *Butler*. Even more importantly, none of the defense attorneys in *Butler* notified Plaintiffs’ counsel in *Reid* and *Griggs* that they intended to bring a copy of the *Griggs* case to Your Honor, and discuss it with you, much less, seek a ruling from the Court that it would also issue stays in *Reid* and *Griggs* in favor of *West*. But from the January 4th hearing transcript, all of those *ex parte* communications obviously occurred.

Because undersigned counsel perceived during the conference call on February 5th that the defendants must have discussed *Griggs* and *Reid* with the Court during the hearing on a motion to

⁴ “*Butler*” refers to an induced earthquake case filed on behalf of 51 plaintiffs in Payne County District Court on October 13, 2017, and which Your Honor stayed in favor of *West* during a hearing held in *Butler* on January 4, 2018. *Butler*’s copycat petition “borrowed” many of the same paragraphs from the *Reid* petition.

⁵ *Butler* did not “borrow” much from *West*, because the operative complaint in *West* was filed before the claims accrued in both *Reid* and *Butler*. Indeed, the claims in both *Reid* and *Butler* center on the induced earthquake near Cushing in November of 2016, and the operative complaint in *West* was filed before the Cushing earthquake, and obviously does not make any allegations about it.

stay filed in *Butler*, and outside their presence *ex parte*, counsel ordered a transcript of the January 4th hearing, which is attached hereto as **Exhibit A**.⁶

The transcript from the *Butler* hearing reveals four important things. First, the Court identified that Attorney Trace Morgan, representing Territory Resources LLC, also a defendant in *Griggs*, had brought the Court certain pleadings from the *Griggs* action prior to the *Butler* hearing, and in order to discuss its status and its remand from federal to district court. **8:15-19, Transcript (Ex. A)**. This interaction with the Court was done without notice to Plaintiffs' counsel in *Griggs*, and was obviously outside their presence. Second, it appears the Court was under the impression that Plaintiffs' counsel in *Reid* and *Griggs* were present at the *Butler* hearing, but they were not. ***Id.* at 19:18-25**. Third, Defendants took advantage of the Court's misimpression and sought a stay of *Griggs* and *Reid* in favor of *West*, even though no such motions had been filed in *Griggs* or *Reid*, and none of the defense attorneys had provided notice to the plaintiffs' lawyers in *Griggs* and *Reid* that they were going to make such a request to the Court. ***Id.* at 22:11 through 23:10**. Therefore, none of the plaintiffs' attorneys in *Griggs* or *Reid* were present when these requests, and the rulings regarding both *Griggs* and *Reid* were made. Fourth, and even though many of the defense attorneys are counsel of record in both *Griggs* and *Reid* and knew that none of the plaintiffs' lawyers in those two cases were present, not one of these defense attorneys informed the Court of the fact that matters were being discussed and being ruled upon by the Court as to *Griggs* and *Reid*, and outside the presence and participation of the lawyers for Plaintiffs in *Griggs* and *Reid*. In other words, none of the defense lawyers told the Court that the undersigned counsel for Plaintiffs were not there and not involved with *Butler*.

⁶ A copy of the transcript of the January 4, 2018, hearing in *Butler* is provided here as **Exhibit A**. Emphasis has been added with yellow highlights identifying where the *ex parte* communications occurred.

The conduct by defense counsel, as described above, created issues concerning Rule 3.5 of the Professional Rules of Conduct, and Cannon 2 of the Code of Judicial Conduct, Rules 2.6, 2.9 and 2.10.⁷

PROCEDURAL MATTER – MOTION TO TRANSFER FILED

During the *Butler* hearing, the Court said that it was not sure whether or not he was assigned the *Griggs* case, and thought it was assigned to Judge Duel. **23:1-10, Transcript (Ex. A)**. *Griggs* is a refiling. Because it was originally assigned to Judge Duel, Rule 7 of the Judicial District's Rules requires it to be assigned to the judge that had it originally, Judge Duel. As such, Plaintiffs in *Griggs* have filed a motion to transfer the action to Judge Duel pursuant to the requirement found in Rule 7.

SUMMARY OF ARGUMENT

Defendants' premise for a stay of *Griggs* and *Reid* is disingenuous. While they say that *West* was the first-filed action, it really was not. And while they also say a stay of *Griggs* and *Reid* is the most judicially economical route to go with all of these earthquake cases, it is not.

If efficiency was the true objective, then why stall the cases with the plaintiffs and lawyers that have spent the most money in these earthquake cases, that have put in the most substantive work, and whose clients will suffer the most prejudice? In truth, it would be more efficient if these cases that are more advanced than *West*, to continue to move forward so that these issues may be resolved, without delay and as the Oklahoma Constitution guarantees. Indeed, the plaintiff lawyers here are the only ones to get past the pleadings stage, engage in discovery, retain expert witnesses, have a geophysicist study Oklahoma's seismicity, and resolve induced earthquake cases. Without question, the attorneys and plaintiffs that defendants wish now to stand down, would be the ones

⁷ These *ex parte* communications were not discovered by undersigned counsel until February 15, 2018, after Plaintiffs' counsel received a copy of the hearing's transcript from the court reporter.

to suffer the most prejudice as they have labored the most, advanced earthquake cases the furthest, and spent the most money to litigate these induced earthquake issues.

Through their thousands of hours in labor and thousands-upon-thousands of dollars spent in earthquake litigation throughout Oklahoma, Plaintiffs in *Griggs* and *Reid*, and their attorneys, have benefited business owners, homeowners, and a tribal nation the most and in the following ways:

- Successful defense of multiple motions to dismiss in multiple district courts.
- Unanimous decision from Oklahoma Supreme Court securing Oklahoman's damaged by induced earthquakes right to have their cases heard in the district courts of the State of Oklahoma. *Ladra v. New Dominion, et al.*, 2015 OK 53, 353 P.3d 529 (2015).
- Court-approved protective orders for efficient document production.
- Court-approved property inspection protocols so that damaged homes, businesses, governmental buildings, and disposal wells may be properly performed, and that such evidence may be properly preserved so any possible spoliation of evidence concerns may be minimized.
- Inspection of multiple plaintiff properties pursuant to such court-approved protocols.
- Defense of multiple homeowner/plaintiff and family member depositions.
- Successful coordination with plaintiffs in other induced earthquake litigation, including coordination on discovery matters and the taking of depositions. *Felts v. Devon*, Oklahoma County District Court, Case No. CJ-2016-137. Plaintiffs are

represented by two past Oklahoma Bar Association Presidents, David Poarch and Garvin Isaacs.

- Retention of geophysicist Wayne Pennington as expert consultant and witness. It is believed that *West* has not retained a geophysicist, nor any other plaintiff or plaintiff lawyer in any other earthquake case.
- Retention of structural engineers to inspect plaintiff properties, including plaintiffs in *Reid* and in *Griggs*.
- Retention of consultants to perform market value losses.
- Petitions drafted, not just from publicly available OCC directives related to shutting down wells, shallowing them, or reducing volumes, but instead based upon scientific analysis performed by Dr. Pennington from historical disposal well data to determine the culpability and contribution of disposal wells and their operators.
- Drafting of multiple sets of interrogatories and requests for production, and study of documents produced in earthquake litigation.
- Multiple open records requests to state and federal agencies related to induced earthquake issues, study of such governmental productions.
- Interviews of several earth scientists most knowledgeable of Oklahoma's seismicity.
- Affidavit from Dr. Pennington used in Oklahoma County action to demonstrate wastewater disposal into Arbuckle is an ultra-hazardous activity.
- Deposition of Dr. Austin Holland, former state seismologist at Oklahoma Geological Survey ("OGS"), and who testified, among other things, that wastewater disposal in the Arbuckle is an ultra-hazardous activity, unreasonably

dangerous, and New Dominion improperly influenced OGS to publicly state the Prague earthquake were naturally occurring.

- Successful mediation of earthquake litigation with Judge (Ret.) Bill Hetherington, Dispute Resolution Consultants.
 - August 2017: Secured individual resolution of personal injury and property damage case related to the induced earthquakes near Prague in November 2011. *Ladra v. New Dominion, et al.*, Lincoln County District Court, Case No. CJ-2014-115 (Judge Lori Walkley presiding).
 - December 2017: Mediation agreement reached of partial class resolution reached in Prague earthquake class case. *Cooper v. New Dominion*, Lincoln County District Court, Case No. CJ-2015-24 (Judge Lori Walkley presiding).
- Another mediation is scheduled with Judge Hetherington in the *Felts* action (discussed further below) for March 28, 2018.

For almost four years, the attorneys representing Plaintiffs in *Griggs* and *Reid* have spent considerable sums of money on experts and consultants, and have been building the proof necessary to demonstrate, pursuant to the *Daubert* standard, that these swarms of earthquakes in Oklahoma have been caused by wastewater disposal in the Arbuckle formation, and to also prove how and to what extent the subject wells contributed to the seismicity under Oklahoma law. Frankly, the attorneys in *Butler* piggybacked on the work that Plaintiffs and their lawyers have done in *Griggs*, *Reid*, and the other earthquake cases their attorneys have been working on since 2014. Even the plaintiffs in *West* and their attorneys, given they have only been pleading and re-

pleading and briefing motions to dismiss for the past two years, have also benefited from our work as their most recent complaint shows.

This memorandum will demonstrate the prejudice Plaintiffs in *Griggs* and *Reid* will suffer if a stay is entered in their cases. Moreover, this submission will also show that Plaintiffs and their attorneys in these cases are most able to bring an efficient remedy to their clients and the class members they seek to represent.

LAW AND ARGUMENT

As introduced above, Defendants' premise is wrong. *West* was not the first-filed case with like claims to those asserted in *Griggs* and in *Reid*. In truth, *Griggs* was the first-filed class action case designed to recover earthquake damages for all Oklahomans suffering from the oil and gas company induced earthquakes. *Griggs* was filed on January 12, 2016, which was a month before *West* was filed. But even more important, is that when *West* was filed in February of 2016, it specifically disclaimed that it was a damages suit. Instead, *West* sought only class action injunctive relief for recovery of earthquake insurance premiums paid by class members, and further, payment by the defendant companies of earthquake insurance premiums for class members going forward. Therefore, in addition to *Griggs* being first on file, the claims asserted the two cases were not at all the same.

With respect to the relationship between *Reid* and *West*, Defendants simply say *West* was filed first, some ten months before *Reid*. White Star Brief at 2. Recall, *West* was purely an injunctive relief claim regarding payment of insurance premiums when it was originally filed – not a damages suit. But more importantly, at the time *West* was filed, the Cushing 5.0m earthquake that is the *Reid* claim, had not yet occurred and would not occur for another eight months. In fact, *West* didn't assert the *Reid* claim (damages as a result of the 5.0m earthquake near Cushing) until

its second amended complaint, which was filed on June 12, 2017 – *six months after Reid was filed, and a month after this Court denied all of the defendants’ motions to dismiss in Reid*. Obviously, *Reid* was not only the first-filed claim regarding the 5.0m Cushing quake, but was past the pleading stage before *West* even asserted the claim, and of course, *West* remains the subject of multiple motions to dismiss and is still at the pleading stage two-years after its original filing.

A. Consideration of the history of earthquake litigation in Oklahoma reveals the fallacy in defendants’ motions to stay.

Because of defendants’ misleading arguments, the complete truth about earthquake litigation in Oklahoma must be addressed in order to determine the present motions appropriately. The history of pertinent earthquake litigation in Oklahoma is as follows.

1. **August 4, 2014:** *Ladra v. New Dominion, et al.*, Lincoln County District Court, Case No. CJ2014-00115.
 - a. Plaintiffs: Gary and Sandra Ladra, represented by Scott Poynter and local Counsel, Larry Lenora of Chandler, OK.
 - b. Defendants: New Dominion, LLC and Spess Oil Company.
 - c. Claim: Individual case brought by the Ladras for personal injuries to Mrs. Ladra and property damages to the Ladra home caused by an induced earthquake of 5.7-magnitude and series of 5.0-magnitude quakes near Prague in November of 2011.
 - d. Procedural History: Oklahoma Supreme Court appointed Judge Lori Walkley of Cleveland County District Court to preside over the action after Judge Cynthia Ashwood recused on the basis of her husband being the Director of Oklahoma’s Emergency Management and having responded to

the Prague earthquakes and having inspected hundreds of properties damaged by the quakes in the area.

- i. Initial motion to dismiss alleging primary jurisdiction with the Oklahoma Corporation Commission was granted, and then appealed.
- ii. Oklahoma Supreme Court reversed that decision and unanimously held that Oklahoma citizens had the right to have their civil cases for earthquake damages caused by fracking wastewater disposal into the Arbuckle to be determined in Oklahoma's district courts. *Ladra v. New Dominion, et al.*, 2015 OK 53, 353 P.3d 529 (2015).
- iii. Second motion to dismiss on basis of statute of limitations was denied.
- iv. Third motion to dismiss for indispensable party was also defeated through the filing of an amended petition.
- v. Depositions of Plaintiffs and family members taken.
- vi. Ladra home was inspected by Defendants pursuant to court-approved protocol.
- vii. Discovery productions provided by both defendants, including well data, and disclosures of witnesses and expert witnesses.
- viii. Disclosures provided as to Plaintiffs' expert witness and geophysicist Wayne Pennington.
- ix. Dr. Pennington had developed proof through scientific analysis that the Prague sequence of earthquakes were induced by disposal wells

operated by New Dominion and Spess Oil, and was set to opine as to each Defendants' level of contribution.

- x. Was scheduled for trial in November of 2017, but settled with all defendants by August/September 2017. Successful mediation with Judge (Ret.) Bill Hetherington between Plaintiffs, Defendant New Dominion, and its insurance carrier. Spess Oil settled outside of mediation.
- xi. First Oklahoma induced earthquake case to be settled.

2. **February 10, 2015**: *Cooper v. New Dominion, et al*, Lincoln County District Court, Case No. CJ-2015-00024.

- a. **Plaintiffs**: Jennifer Cooper represents citizens of Oklahoma with properties in Lincoln County and each bordering county who sustained damage by the earthquakes near Prague in November of 2011. Scott Poynter is lead counsel and Larry Lenora is Local Counsel.
- b. **Defendants**: New Dominion, LLC, and Spess Oil Company.
- c. **Claim**: Class Action brought for the citizens of Oklahoma with properties in Lincoln County, and each bordering county, and who sustained damages in the earthquakes near Prague in November of 2011.
- d. **Procedural History**: Class Representative Jenner Cooper has been deposed by Defendants and she has also produced documents in the discovery process.
 - i. Class Representative's home was inspected pursuant to court-approved protocol.

- ii. New Dominion also inspected, informally, a neighboring home to get a better sense of over-all damages in the area.
- iii. Defendants have produced documents in the discovery process, including documents compelled by the Court.
- iv. As with *Ladra*, Judge Walkley is the presiding judge.
- v. Appears that a jury trial will be set in Lincoln County District Court in September of 2018. Judge Walkley is working to secure a courtroom, court reporter, and to ensure a jury panel will be available.
- vi. Plaintiffs are set to file class certification motion next month.
- vii. Deposition of former state seismologist and OGS employee Dr. Austin Holland has been taken in this case, after extensive negotiation with Department of Interior as Dr. Holland is now employed by USGS in New Mexico. Dr. Holland testified that wastewater disposal into the Arbuckle was an ultra-hazardous activity, that both New Dominion and Spess Oil were contributors to the Prague earthquakes. Dr. Holland also testified as to pressures placed on OGS by New Dominion to state publicly that the Prague earthquakes were naturally occurring quakes.
- viii. Successfully mediated class action remedy with Spess Oil and its carrier through Judge Hetherington just before Christmas 2017, and have a signed mediation agreement that provides cash settlement relief to the members of the class. Mr. Poynter has interviewed

companies applying to serve as notice and claims administrators for the intended class settlement, and is in the middle of drafting formal class settlement stipulation to present to Judge Walkley for preliminary settlement approval and to notify class members of their legal rights regarding the pending settlement. Expect to present such motion in March.

3. **October 29, 2015**: *Sierra Club v. Chesapeake, New Dominion, Devon, and Sandridge*. Notice of Intent to Sue Letter served on Defendants pursuant to Resource Conservation and Recovery Act (“RCRA”).

- a. Plaintiff: The Sierra Club.

- i. In the summer of 2015, and due to its substantial environmental concerns in Oklahoma, the Sierra Club hired legal counsel at the public interest law firm, Public Justice, and specifically Richard Webster. Mr. Webster’s charter was to investigate Oklahoma’s earthquakes that, by this time, the Governor and every federal and state agency had determined was being caused by the oil and gas industry’s disposal of wastewater into Oklahoma’s Arbuckle formation. The Sierra Club, through Public Justice, then engaged Robin Greenwald, a skilled environmental pollution attorney at Weitz & Luxenberg, and Scott Poynter of Poynter Law Group, the most experienced litigator in induced earthquake lawsuits, to its legal team.

- b. Defendants: Chesapeake Operating, LLC, Devon Energy Production Co., New Dominion, LLC.
 - c. Claim: Sierra Club brought an action for declaratory and injunctive relief pursuant to RCRA, and requested relief in the form an order to reduce the amounts of wastes injected into the Arbuckle to levels that seismologists would determine would not cause or contribute to increased earthquake frequency and severity.
 - i. The Sierra Club then hired consultants to build the science behind Oklahoma's seismicity and to prepare maps and charts that would also show the problem more visibly. These consultants assisted the legal team in preparing the Notice of Intent to Sue, and more specifically, the charts and maps attached as exhibits. On October 29, 2015, this letter was served on Chesapeake, New Dominion, Devon, and Sandridge. RCRA requires the letter to be served within 90-days of filing suit.
 - d. Procedural History: On February 16, 2016, *Sierra Club v. Chesapeake, et al.*, was filed in the U.S.D.C., Western District of Oklahoma, and assigned Case No. 5:16-cv-00134-F. It was assigned to Judge Stephen Friot.
 - i. On April 4, 2017, Judge Friot abstained from taking jurisdiction and held the OCC had primary jurisdiction over these matters.
4. January 11, 2016: *Felts, et al. v. Devon, et al.*, District Court of Oklahoma County, Case No. CJ-2016-137.

- a. Plaintiffs: Fourteen plaintiffs with nine Oklahoma County homes damaged by induced earthquakes occurring on the 4.3-magnitude earthquake of December 29, 2015, and 4.2-magnitude earthquake of January 1, 2016.
- i. Lead Counsel in the action are David Poarch of Norman, and Garvin Isaacs of Oklahoma City.
 - ii. Scott Poynter is working with Mr. Poarch and Mr. Isaacs as additional counsel. Mr. Isaacs and Mr. Poarch are additional counsel in *Ladra* and *Cooper*. These attorneys work together in developing earthquake litigation strategies, studying Oklahoma's seismicity and causes, sharing expert/consultant geophysicist Dr. Pennington, and helping one another in preparing *Ladra*, *Cooper*, and *Felts* for trial.
- b. Original Defendants: Devon Energy Production Company, LP, Sundance Energy Oklahoma, LLC, Grayhorse Operating, Inc., Pedestal Oil Company, Inc., New Dominion, LLC, R.C. Taylor Operating Company, LLC, TNT Operating Company, LLC, White Operating Co., Rainbo Service Co., Marjo Operating Mid-Continent LLC, Special Energy Corporation, Northport Production Co.
- c. Current Defendants: Based upon an amended petition filed on December 28, 2017, the current named defendants are: Sundance Energy, Meadowbrook Oil, Grayhorse Operating, Pedestal Oil, New Dominion, R.C. Taylor Operating, TNT Operating, White Operating, Rainbo Service, Marjo Operating, Callie Oil, and Baron Exploration.

- d. Claim: Petition filed by the group of Plaintiffs whose homes were damaged by induced earthquakes reaching levels of 4.3 magnitude on December 29, 2015, and 4.2 magnitude on January 1, 2016.
- e. Procedural History: The presiding judge is Judge Trevor Pemberton.
- i. These two earthquakes identified in the *Felts* petition are within “The Edmond Cluster” identified in the *Griggs* re-filed case.
 - ii. Defeated motions to dismiss for failure to state a claim on June 6, 2016. An injunctive relief claim was dismissed, in favor of OCC jurisdiction.
 - iii. Additional defendants were included in an amended petition February 8, 2017.
 - iv. All Plaintiffs have provided deposition testimony.
 - v. All of Plaintiffs’ homes have been inspected by the Defendants pursuant to the same stipulated inspection protocol entered in *Ladra* and *Cooper*.
 - vi. Discovery documents have been exchanged.
 - vii. Plaintiffs have also secured documents from federal and state regulatory bodies pursuant to certain open records requests.
 - viii. Garvin Isaacs, David Poarch, and Scott Poynter all worked together to take the deposition of the State’s former seismologist at OGS, Dr. Holland. As addressed above, Dr. Holland testified that wastewater injection into the Arbuckle formation is an ultra-hazardous activity

and that New Dominion pressured OGS to make certain public statements that Oklahoma's earthquakes were naturally occurring.

ix. **Mediation** has been agreed to and is scheduled with Judge (Ret.) Hetherington for February 28th.

5. **January 12, 2016**: *Griggs v. Chesapeake, et al.*, Logan County District Court, Case No. 2016-6.

- a. **Plaintiffs**: Lisa Griggs and April Marler originally filed their petition to represent all residents of the State of Oklahoma owing real property within its borders whose property suffered damages from the multiple human-induced earthquakes in Oklahoma caused by wastewater disposal wells. Lead counsel are Scott Poynter and Curt Marshall. Local Counsel is Bill Federman.
- b. **Original Defendants**: Chesapeake, New Dominion, Devon, and Sandridge.
- c. **Current Defendants**: New Dominion, TNT Operating, White Operating, Rainbo Service, Dryes Corner, Chesapeake, Devon, Special Energy, Orca Operating, White Star, Equal Energy, Elder Craig Oil and Gas, D&B Operating, M M Energy, Dakota Exploration, Wicklund Petroleum, Kirkpatrick Oil, Toomey Oil Company, Chaparral Energy, EastOK, Mid-Con Energy, Midstates Petroleum, Territory Resources.
 - i. The original defendants, Chesapeake, New Dominion, Devon, and Sandridge, were all operators of disposal wells in Oklahoma and were responsible for more than 60% of the wastewater disposal within Oklahoma's Arbuckle formation.

- d. Claim: The original claim covered all of Oklahoma, and all earthquakes caused by wastewater disposal wells operated by Defendants, and which caused damage to citizens of Oklahoma owning real property within Oklahoma.
- e. Procedural History: The action was assigned originally to Judge Louis A. Duel.
- i. The original class action petition included all Oklahomans and all wastewater disposal induced earthquakes throughout the State.
 - ii. Prior to the filing of this original petition, Plaintiffs' counsel engaged certain consultants to build data regarding Oklahoma's seismicity, historically, and the relationship it had to the level of increased wastewater disposal into the Arbuckle. Such data was used in asserting the claims in *Griggs*, and also in counsel's representation of the Sierra Club in its declaratory and injunctive relief action pursuant to RCRA. As such, counsel did not just draft their allegations from letters or directives written by the OCC, and what was in the news. Instead, Plaintiffs hired professionals to study the science behind the seismicity, how it was caused, who caused it, and the level of their contributions to the cause.
 - iii. On February 16, 2016, Devon removed the action was removed to the Western District of Oklahoma and assigned to Judge Stephen Friot. Motion to remand briefing followed. On June 30, 2016, Judge Friot found minimal diversity pursuant to the Class Action Fairness

Act of 2005, and denied the motion to remand. Thereafter, Plaintiffs nonsuited the claims in order to re-plead them.

- iv. Plaintiffs consulted with Dr. Wayne Pennington, a geophysicist. Dr. Pennington studied all of the seismicity in central Oklahoma, and the potential causes of same. Thereafter, he studied the relationship and contribution of wastewater disposal wells to the seismicity and made determinations that formed the scientific basis for the claims eventually re-pled by Plaintiffs.
- v. After extensive consultations with Dr. Pennington, and study of all earthquakes in Oklahoma since 2009, on July 21, 2017, this action was re-filed in Logan County District Court and given the Case No. CJ-2017-174.
- vi. The re-filed petition narrows the case to certain defined earthquakes and earthquake swarm areas. It then ties those earthquakes to certain and identified wastewater disposal wells that dump wastewater into the Arbuckle. The petition also makes allegations as to each well's level of contribution to the seismicity through its location in relationship to the earthquakes, their depth, and the historic volumes of wastes they pushed down into the Arbuckle. These allegations are unique in that they are based on actual scientific study by an expert consultant geophysicist, and not simply borrowed from another attorney's pleading, what was reported in a newspaper or other media outlets, or simply taken from OCC directives. The allegations

are based upon scientific study of Plaintiffs' retained expert/consultant.

6. **February 18, 2016:** *West v. ABC Oil, et al.*, District Court of Pottawatomie County, Case No. CJ-2016-49.

- a. Plaintiffs: Filed originally by Lisa West and Stormy Hopson of Lincoln and Pottawatomie counties. Plaintiffs' attorneys are Ray Maples and Edward White, both of Edmond.
- b. Defendants: Original named defendants were: ABC Oil Company, Berexco, LLC, Chaparral Energy LLC, Fairfield Oil & Gas Corp, Guinn Company, Hembree A. W. Company, Leasehold Management Corp., New Dominion LLC, Newell Oil and Gas, LLC, Okla. Oil & Gas Management, Inc., Onshore Royalties, LLC, Phoenix Oil & Gas, Inc. Billy Jack Sharber Operating, LLC, Sullivan and Company, LLC, and Transpo Energy, LLC.
- c. Current Defendants: Based upon the second amended complaint, filed July 18, 2017, the current named defendants are: Chaparral Energy, Chesapeake, Devon, EastOK, Equal Energy, Fairfield Oil, New Dominion, Phoenix Oil, Range Production, Sandridge, Transpro Energy, and White Star. Plaintiff has pled for certification of a Defendants' Class.
- d. Claim: Class action brought originally on behalf of all persons having an insurable interest in real property in Cleveland, Lincoln, McClain, Okfuskee, Oklahoma, Pontotoc, and Seminole counties for injunctive relief, and specifically denying the recovery of damages. The original class petition pled for equitable relief in the form of paying for the earthquake

insurance premiums of class members that had paid them, and paying for earthquake insurance premiums for class members going forward. The petition also sought to certify a class of defendants to pay backward and forward earthquake insurance premiums.

- e. Procedural History: March 18, 2016, Berexco (a Texas citizen) removed the case to the U.S.D.C., Western District of Oklahoma, and assigned to Judge Stephen Friot. The Case No. is: 5:16-cv-00264-F.
 - i. On April 18, 2016, a motion to remand was filed and briefing began. Briefing on remand and motions to dismiss and motions to strike class allegations ensued. Plaintiff withdrew their motion to remand in September of 2016, and stated their intent to amend their pleading.
 - ii. On October 14, 2016, the plaintiffs amended their complaint, and added to their remedies the recovery of damages in addition to the injunctive relief they pled originally to recover earthquake insurance premiums paid and to cause defendants and a class of unnamed defendants to pay for earthquake premiums in the future and until it is determined that they are no longer necessary. The plaintiffs also named additional defendants.
 - iii. Motions to dismiss the amended complaint, strike it, and to strike its class allegation were then filed. A hearing on those motions was held on May 12, 2017. Some elements of the motions to dismiss were denied, some granted, and some held in abeyance. The Court

ordered the filing of a second amended complaint by June 12, 2017.

Thereafter, Plaintiffs moved for another 45 days to file the second amended complaint, which was granted. Plaintiffs asked for another extension of one week thereafter, which was also granted.

- iv. On July 18, 2017, a second amended complaint was filed. This complaint added claims regarding the Pawnee earthquake sequence of September 3, 2016 and thereafter (which was already on file in *Adams*, discussed below), and the Cushing earthquake of November 2016 (which was already on file in *Reid*).
- v. Multiple motions to dismiss, strike, and strike the class allegations are pending.
- vi. The action remains, after almost two years, at the pleading stage.

7. **November 17, 2016**: *Adams v. Eagle Road and Cummings Oil*, District Court of Pawnee County, Case No. CJ-16-0078, Judge Patrick Pickerill presiding.

- a. Plaintiff: James Adams seeks to represent Oklahoma property owners who sustained damage resulting from the 5.8m earthquake and the earthquake sequence that followed near Pawnee, and that was caused by Defendants' wastewater disposal wells. Lead Counsel are Scott Poynter and Curt Marshall. Local Counsel is Bill Ellington.
- b. Defendant: Eagle Road Oil LLC, and Cummings Oil Co.
- c. Claim: Class action petition for Oklahoma citizens with properties in Pawnee, Creek, and Noble counties to recover damages due to September

3, 2016, 5.8-magnitude earthquake near Pawnee, and a swarm of earthquakes that followed thereafter near Pawnee.

d. Procedural History: On December 21, 2016, Cummings Oil removed the action to the Northern District of Oklahoma. On April 12, 2017, Judge Claire V. Eagan remanded the action to Pawnee County District Court.

i. On July 10, 2017, Judge Pickerill denied the motions to dismiss for the most part, but ordered an amended petition with more facts as to the strict liability count. The amendment was filed, and on February 8, 2018, Judge Pickerill heard argument regarding same. The Court ordered the parties to submit a scheduling order by February 28th, and scheduled a two-day evidentiary hearing to determine if disposal well operations into the Arbuckle is an ultra-hazardous activity.

ii. A companion individual action, *Bryant v. Eagle Road, et al.*, Case No. 2017-18, was filed on March 8, 2017, and on behalf of a husband and wife whose home appears to be a total loss from the 5.8m induced earthquake near Pawnee.

8. December 5, 2016: *Reid, et al v. White Star, et al.*, District Court of Payne County, Case No. CJ-2016-543, Judge Phillip C. Corley presiding.

a. Plaintiffs: Oklahoma Citizens with properties in Payne, Noble, Creek, and Lincoln Counties. Lead Counsel are Scott Poynter and Curt Marshall. Local Counsel are Charles Watson and Keith Ward.

- b. Defendants: White Star Petroleum LLC, Crown Energy Company, Petrowarrior LLC, FHA Investments LLC, and Cher Oil Company, LTD.
- c. Claim: Class action brought on behalf of for Oklahoma citizens with properties in Payne, Noble, Creek, and Lincoln counties to recover damages due to November 6, 2016, 5.0-magnitude earthquake near Cushing.
- d. Procedural History: The Court denied the motions to dismiss in May of 2017, and the defendants have filed their answers.
 - i. Plaintiffs have served discovery requests, and Defendants have served their objections and responses.
 - ii. Plaintiffs have provided Defendants draft inspection protocols and a draft protective and confidentiality order.
 - iii. Plaintiffs have offered Defendants the opportunity to inspect their homes and businesses pursuant to the inspection protocols.

9. **March 3, 2017**: *Pawnee Nation of Oklahoma v. Eagle Road, et al.*, District Court of the Pawnee Nation, Case No. CIV-2017-803, Judge Dianne Barker Harrold presiding.

- a. Plaintiffs: The Pawnee Nation of Oklahoma, represented by Scott Poynter and Curt Marshall.
- b. Defendants: Eagle Road Oil LLC, and Cummings Oil Company
- c. Claim: The Pawnee Nation suffered hundreds of thousands of dollars in damages to its governmental (and historical) buildings from the 5.8m induced earthquake on September 3, 2016 and subsequent sequence of seismicity, and its suit is to recover those damages.

d. Procedural History: Defendants' motions to dismiss on jurisdictional grounds were denied on October 27, 2017.

i. Drafts of inspection protocols have been exchanged.

ii. In January of 2018, Defendants moved to certify the jurisdictional questions to the Pawnee Nation Supreme Court.

iii. Recent federal injunction halting the Cherokee Nation's opioid case filed in its tribal court, based upon lack of jurisdiction, has caused the Pawnee Nation to consider voluntary dismissal of its earthquake case in tribal court and re-filing in federal court.

10. **December 28, 2017**: *Chacko, et al. v. Sundance, et al.*, District Court of Logan County, Case No. CJ-2017-7308, Judge Patricia G. Parrish.

a. Plaintiffs: Sixty-one plaintiffs and residents of Oklahoma County and Logan County whose homes were damaged by induced earthquakes occurring on the 4.3-magnitude earthquake of December 29, 2015, and 4.2-magnitude earthquake of January 1, 2016.

i. Lead Counsel in the action are David Poarch of Norman, and Garvin Isaacs of Oklahoma City.

ii. Scott Poynter is working with Mr. Poarch and Mr. Isaacs as additional counsel. Mr. Isaacs and Mr. Poarch are additional counsel in *Ladra* and *Cooper*. These attorneys work together in developing earthquake litigation strategies, studying Oklahoma's seismicity and causes, sharing expert/consultant geophysicist Dr. Pennington, and helping one another in preparing *Ladra*, *Cooper*, and *Felts* for trial.

- b. Defendants: Sundance Energy, Meadowbrook Oil, Grayhorse Operating, Pedestal Oil, New Dominion, R.C. Taylor Operating, TNT Operating, White Operating, Rainbo Service, Marjo Operating, Callie Oil, and Baron Exploration.
- c. Claim: Petition filed by the group of Plaintiffs whose homes were damaged by induced earthquakes reaching levels of 4.3 magnitude on December 29, 2015, and 4.2 magnitude on January 1, 2016. The Petition has not yet been formally served.

B. A proper legal analysis reveals that *Griggs* and *Reid* are the first-filed cases, more advanced than *West*, and Plaintiffs are constitutionally entitled to move forward, without delay.

The legal foundation to be considered on these motions is that the Oklahoma Constitution guarantees Plaintiffs (as well as the plaintiffs in *Reid*) the right to Oklahoma’s courts, and to have their cases heard and addressed quickly and justly. It is the well-established constitutional rule in Oklahoma that in a civil proceeding the right to speedy trial and certain remedy without delay is enjoyed by all Oklahoma citizens. *Pierce v. State ex rel. Dep’t of Public Safety*, 327 P.3d 530, 533 (Okla. 2014) (“The right to a speedy and certain remedy without delay, in a civil proceeding, is one of the rights enjoyed by Oklahoma citizens”); *Flandermeyer v. Bonner*, 152 P.3d 195, 199 (Okla. 2006) (“The right to a speedy and certain remedy without delay, in a civil proceeding, is one of the rights enjoyed by the citizens of this State.”); *State ex rel. Oklahoma Bar Ass’n v. Maddox*, 152 P.3d 204, 209, n.11 (Okla. 2006) (same). The Oklahoma Constitution provides:

The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.

Okla. Const., Art. 2, § 6. Thus, the Oklahoma Constitution requires that a speedy and certain remedy be afforded for every wrong and for every injury to person or property, and that right and justice be administered without denial, delay or prejudice. *Id.*; *Flandermeyer*, 152 P.3d at 199; *Maddox*, 152 P.3d at 209, n.11.

Further, Plaintiffs have the right to be here, and to have their case heard here. In a unanimous decision from the Oklahoma Supreme Court in June of 2015, the Supreme Court held that Oklahoma citizens damaged by earthquakes caused by operators of wastewater injection wells are entitled to have their damages claims adjudicated in Oklahoma's district courts. *Ladra v. New Dominion, LLC*, 2015 OK 53, 353 P.3d 529 (2015).⁸

Thus, Defendants seek to frustrate both the Constitutional guarantee to a remedy without delay, and Plaintiffs' right to a district court jury in induced earthquake damage lawsuits as provided in *Ladra*.

(1) Defendants' arguments for a stay are not only misleading, but also hypocritical.

As demonstrated above, a majority of the plaintiffs and cases involving Oklahoma's induced seismicity are being prosecuted by the team of lawyers representing Plaintiffs, who are, even now, preparing cases for trial. Further, members of the team of lawyers representing Plaintiffs have resolved the *Ladra* case, have a partial class action settlement in principle in *Cooper*, and have successfully mediated induced earthquake cases twice now (regarding both individual claims and class action claims) with Judge Hetherington. Further, counsel for Plaintiffs have also scheduled mediation in *Felts* with Judge Hetherington on March 28th.

⁸ One of Plaintiffs' counsel, Scott Poynter, was also counsel for Mr. and Mrs. Ladra. Mr. Poynter was lead counsel in Lincoln County District Court and on the appeal, which secured the right to a jury for Oklahoma's citizens damaged by wastewater disposal induced earthquakes. As discussed in the previous section of this brief, the *Ladra* action has been fully resolved between New Dominion and Spess Oil Company.

There are two very important events coming soon, in like cases in state courts, which this Court should consider. In *Cooper*, the plaintiffs will move for class certification in March. There, Judge Walkley will be determining class certification under state law. Her decision should aid Your Honor much more, and much sooner, than a decision in *West* under federal law. Second, Pawnee County District Judge Pickerill has ordered a two-day mini-trial in *Adams* and *Bryant* beginning on August 23rd, and in order to determine whether wastewater disposal into the Arbuckle formation is an ultra-hazardous activity warranting of strict liability. It is clear, Defendants want *Griggs* and *Reid* to be stayed to prejudice and frustrate Plaintiffs' momentum.

Defendants' efforts here as also hypocritical. In essence, they base their motions on the premise that *West* includes the plaintiffs in *Griggs* and *Reid* and that they will be protected by *West*. Moreover, they also say these cases will move more efficiently if *Griggs* and *Reid* are stifled. However, neither of these messages are true. What is undoubtedly true is that Defendants fully intend to oppose class certification in *West*, and thus, they will be arguing for individual litigation of each and every earthquake claim across Oklahoma. As such, they want one-on-one and case-by-case litigation, and further, that *they must* have thousands-upon-thousands of cases litigated in venues all over Oklahoma. In other words, out of one side of their mouths Defendants are telling this Court to stop everything because *West* will help all of the cases to move forward more economically, but in *West* they will speak out of the other side of their mouths and tell Judge Friot that these cases have to be prosecuted in the most inefficient way possible – by having thousands of separate prosecutions in tens of different venues in Oklahoma's state and federal courts. Defendants cannot have it both ways – one action or multiple actions.

What is behind these two-faced defense arguments is that the federal court has a more stringent standard for class certification than Oklahoma does. Indeed, the motive behind

Defendants' series of three removals of *Griggs*, and their present attempts to stay *Griggs* and *Reid*, is not only that the federal rule is different, and is applied differently, but that Judge Friot has held that his federal court is not bound to follow Oklahoma's more liberal precedent of certifying cases as class actions. *Miller v. Farmers Insurance Group, et al.*, 2012 WL 8017244, fn. 12 (W.D. Okla., March 22, 2012) (refusing to follow two Oklahoma Supreme Court's class certification decisions providing some leniency at the class certification stage).⁹ Thus, not only is *West* not the first-filed action, but consideration of what Judge Friot might do a year, or two years from now at class certification will not be helpful to this Court.

The reasoning behind the first-filed rule is the elimination of potential conflicting legal determinations, and thus, the first-filed rule presumes the same law will apply in the separate cases. But *West* will apply federal law and will refuse Oklahoma precedent, as demonstrated in *Miller*. There will, very likely, be a conflict between what the Oklahoma district courts' rule under state law class certification principles and what Judge Friot does in *West*.

(2) Defendants have also failed to carry their burden on the present motions.

None of the motions to stay filed in *Griggs* and *Reid* meet Defendants' burden of proof and persuasion. For example, and in addition to the arguments detailed above, the plaintiffs are obviously different in *West*, *Griggs*, and *Reid*, and they are also represented by different attorneys. Defendants only cite to *Burks v. American Nat. Bank of Tulsa*, 89 Okla. 62, 213 P. 301 (Okla. 1923) to support their proposition that the differences in plaintiffs may be ignored, because, they say, the parties only need to be substantially the same. *Burks*, however, has absolutely nothing to

⁹ Judge Friot refused to follow *Black Hawk Oil Co. v. Exxon Corp.*, 969 P.2d 337, 345 (Okla.1998) and *Burgess v. Farmers Ins. Co.*, 151 P.3d 92, 99–101 (Okla.2006). These cases hold that inquiry into the merits of the action is inappropriate at the class certification stage, and that the potential inability of proposed class representative to prove certain elements of their claims was an inappropriate merit-based argument improper for consideration on a motion for class certification.

do with 12 O.S. §2012(B)(8), and does **not** even cite the statute. Further, the quote proffered by EastOK¹⁰, in its brief in *Griggs* is from the Westlaw Headnote, and nowhere within the Supreme Court's opinion. Thus, EastOK's supposed precedent is something a writer at Westlaw wrote, and not at all the holding of the Oklahoma Supreme Court. White Star's copycat motion filed in *Griggs* and *Reid*, offers the same quote from the same opinion, and thus, it also relies on Westlaw's drafter, as opposed to the Supreme Court.¹¹

(3) Other state court decisions, however, should be helpful to this Court.

The upcoming class certification decision by Judge Walkley in the *Cooper* class case, and Judge Pickerill's mini-trial on the ultra-hazardous activity count in the *Adams* class case and in the *Bryant* case are of much more significance than *West*. Indeed, these decisions, to be decided under state law, will be much more instructive to this Court. Moreover, these state court decisions will be determined much sooner than class certification in *West*. After all, *West* has been stuck for two years at the motion to dismiss stage, and considering that the federal class certification rule is applied under a much more rigorous standard after substantial discovery is performed by the parties, it is likely to be another two years before a class certification decision is ever rendered in *West*. Which is probably another motivation behind defendants' prayers for a stay of *Griggs* and *Reid*. Defendants have failed to show good cause for staying this action.

¹⁰ New Dominion, Dakota Exploration, and Special Energy joined in EastOK's motion filed in *Griggs*.

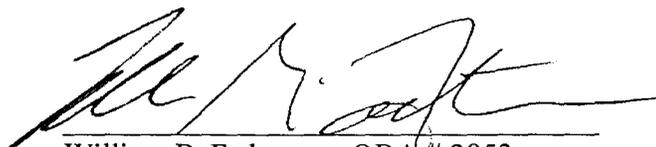
¹¹ White Star's motion to stay in *Griggs* was joined by TNT Operating, White Operating, Dryes Corner, and Equal Energy, which also adopted EastOK's motion. White Star's motion to stay in *Reid* was adopted and joined in by FHA Investments and Crown Energy.

CONCLUSION

For all of the foregoing reasons, the Court should deny Defendants' motions to stay and allow *Griggs* and *Reid* to continue to move forward without delay as guaranteed to Plaintiffs in Oklahoma's Bill of Rights. Art, 2, § 6, Constitution of the State of Oklahoma.

DATED: February 20, 2018

Respectfully Submitted,



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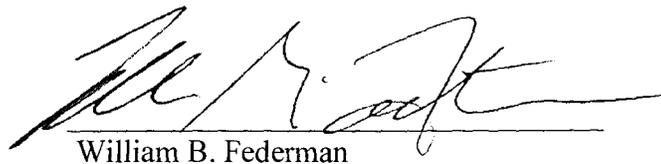
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EXHIBIT A

IN THE DISTRICT COURT OF PAYNE COUNTY
STATE OF OKLAHOMA

JAMES BUTLER, an individual;)
ETHEL CHISUM, an individual;)
C.W. COLLINS, an individual;)
JERRY CRAMER, an individual;)
LINDA DAVIDSON, an individual;)
LESLIE EARNEST, an individual;)
RONALD EARNEST JR, an individual;)
BILLY FANNING, an individual;)
JACQUELINE FARROW, an individual;)
RODNEY FARROW, an individual;)
CHARLES FERGUSON, an individual;)
BARBARA FOSTER, an individual;)
TINA HOLLAND, an individual;)
DAVID HUMPHREY, an individual;)
DAVID JARRETTE, an individual;)
JENNIFER JARRETTE, an individual;)
KIMBERLY KEETON, an individual;)
WILLIAM KEETON, an individual;)
ABBY MACKIE, an individual;)
EDWARD MACKIE, an individual;)
PORTER MAGBY, an individual;)
LAURA MATHES, an individual;)
MICHAEL MAYS, an individual;)
MARTINEZ MCKINNEY SR, an individual;)
LYNDA MCPHETERS, an individual;)
RAYMOND MCPHETERS, an individual;)
JUDITH MILLER, an individual;)
LILA MITCHELL, an individual;)
BEVERLY MORGAN, an individual;)
CYNTHIA MOTA, an individual;)
DORIS MYERS, an individual;)
JAMES MYERS, an individual;)
JASON OWENS, an individual;)
MARILYN JOYCE PARLIER, an individual;)
TERRY PHILLIPS, an individual;)
JAMES PIKE, an individual;)
TIA REEDY, an individual;)
BARBARA RICH, an individual;)
JAMES RICH, an individual;)
KATHRINE RUNOWSKI, an individual;)
RICHARD RUNOWSKI an individual;)
TAMMY SEARS, an individual;)
RYAN SEWELL, an individual;)
DEWAYNE SHARPTON, an individual;)
ROBERT SMITH, an individual;)
KAREN THOMPSON, an individual;)
ROY THORNHILL, an individual;)

CASE NO. CJ-2017-469

COPY

1 DOROTHY WARE, an individual;)
 JOHNNY WARE, an individual;)
 2 MELBA WHITT, an individual;)
 JAYSON WRIGHT, an individual;)
 3 AMELIA WYNN, an individual;)

4 Plaintiffs,)
 v.)

5 BEREXCO LLC; CHAPARRAL ENERGY LLC;)
 6 CHER OIL COMPANY LTD; CHESAPEAKE)
 OPERATING LLC; CIMARRON RIVER)
 7 OPERATING CORP; CIRCLE 9 RESOURCES)
 LLC; CROWN ENERGY COMPANY; EASTOK)
 8 PIPELINE LLC; EQUAL ENERGY US INC;)
 FHA INVESTMENTS LLC; INTERNATIONAL)
 9 ENERGY CORPORATION; KOBY OIL COMPANY)
 LLC; MARJO OPERATING MID-CONTINENT)
 10 LLC; MID-CON ENERGY OPERATING LLC;)
 MIDSTATES PETROLEUM COMPANY LLC;)
 11 MONTCLAIR ENERGY LLC; OAKLAND)
 PETROLEUM OPERATING COMPANY INC;)
 12 ORCA OPERATING COMPANY LLC; PETCO)
 PETROLEUM CORP; PETRO WARRIOR LLC;)
 13 RANGE PRODUCTION COMPANY LLC; SHIELDS)
 OPERATING INC; SPECIAL ENERGY CORP;)
 14 TARKA ENERGY LLC; TERRITORY RESOURCES)
 LLC; WHITE STAR PETROLEUM LLC;)
 15 and DOES 1-25, Inclusive,)

16 Defendants.)

17 * * * * *

18 TRANSCRIPT OF PROCEEDINGS

19 HAD ON THE

20 4TH DAY OF JANUARY, 2018

21 BEFORE THE

22 HONORABLE PHILLIP CORLEY

23 * * * * *

24 Reported by:
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1 (The following proceedings transpired in open
2 court with all parties present:)

3 THE COURT: Let's have the parties enter their
4 appearances for the court reporter, please.

5 MR. COTTINGHAM: Dale Cottingham on behalf of
6 White Star Petroleum.

7 THE COURT: Just go down the list.

8 Yes, sir?

9 MR. SMITH: Michael E. Smith for FHA Investments.

10 MR. J. BOMHOFF: Jack Bomhoff for Crown Energy.

11 MR. HENSON: Trevor Henson for International
12 Energy, Cher Oil Company, Koby Oil Company, Marjo Operating,
13 and Oakland Petroleum, as well as Terence Brennan for the
14 same clients.

15 MS. ANDERSON: Your Honor, Pam Anderson for Petco
16 Petroleum Corporation. I just wanted to inform the Court,
17 we weren't served until late last week. We attempted to get
18 an entry of appearance and a joinder in the motions to
19 dismiss on file. Yesterday we Fedexed it on January 2nd.
20 For whatever reason, it didn't get to the Court until today.
21 But I just wanted to let you know, we have entered an
22 appearance and joined in the motions to dismiss.

23 THE COURT: We'll show the entry of appearance
24 noticed and allow you to join in the motion at this time.

25 Mr. Morgan?

1 MR. MORGAN: Trace Morgan for Territory Research.

2 MS. BEHRLE: Avery Behrle here on behalf of all
3 the plaintiffs.

4 THE COURT: Last name again? I'm sorry.

5 MS. BEHRLE: It's Avery Behrle.

6 THE COURT: Behrle?

7 MS. BEHRLE: Behrle.

8 MR. STEIDLEY: Your Honor, I'm Gil Steidley on
9 behalf of Tarka Energy.

10 MS. RUDNICKI: Leah Rudnicki for Eastok Pipeline
11 LLC.

12 MR. T. BOMHOFF: Tim Bomhoff for Chesapeake
13 Operating LLC, Berexco, Mid-Con, Orca Operating Company,
14 Range Resources. We also represent Chaparral. There was a
15 service issue, so we didn't file our motion until later. So
16 it's not set for this day, but it's a similar motion to what
17 we have here with the exception that it has some additional
18 argumentative authority about Chaparral's emergence from its
19 bankruptcy. Also Patrick Stein is with me representing
20 these clients.

21 MR. PRITCHETT: Your Honor, Edd Pritchett
22 representing Equal Energy US Inc., Shields Operating Inc.,
23 White Star Petroleum LLC, and Midstates Petroleum
24 Company LLC. We've also been asked to represent Circle 9
25 Resources, but they were served last week, so we haven't

1 entered an appearance or filed any motion on behalf of
2 Circle 9 yet. I'll just let the Court know that depending
3 on the ruling today, we will either file a motion to join or
4 our answer, depending on what the Court rules.

5 THE COURT: Counsel?

6 MR. LeNAIRE: Lewis LeNaire on behalf of White
7 Star Petroleum.

8 MR. McDANIEL: Mike McDaniel on behalf of Special
9 Energy Corporation. We don't have anything set for hearing
10 today, but we have filed a motion to dismiss.

11 THE COURT: I'm sure you're all aware that we've
12 had a similar case, the Reid case, where we've addressed a
13 lot of these -- I've addressed a lot of these same issues
14 previously. I don't anticipate changing my ruling in this
15 case as it relates to those issues. I believe that the
16 motions to dismiss should be overruled, go on with
17 discovery, and those should be properly addressed in a
18 motion for summary judgment as I ruled previously.

19 So if there's something as relates to those issues
20 that are different, I'll go ahead and hear you on those
21 issues at this time. If they're all the same, let's move on
22 to an issue that I haven't addressed previously.

23 MR. COTTINGHAM: Your Honor, going directly where
24 I thought we should discuss first, which is kind of a
25 choreography of this, it seems to me -- And I'm speaking on

1 behalf of a number of defendants -- that it might be best
2 for you to entertain the motions to stay first. If you stay
3 the matter, then you don't need to reach the motions to
4 dismiss. So that's the choreography I would suggest to Your
5 Honor.

6 We do have some additional arguments in regard to
7 the motions to dismiss that you did not hear in May last
8 year, in regard to the Reid case. So my suggestion would be
9 we'd limit those arguments just to something that's
10 different.

11 THE COURT: Okay. Let's hear --

12 MR. COTTINGHAM: So that's what I would suggest.

13 THE COURT: Let's hear the issue as to the motions
14 to stay.

15 Let me say, it's my understanding -- Mr. Morgan
16 brought me the federal case that has been filed out of Logan
17 County, and it's my understanding that's been sent back to
18 the district court. So that particular issue is probably
19 moot at this time; is that accurate?

20 MR. COTTINGHAM: Actually, Your Honor, the motions
21 to stay, the basis for that is, first, the West case, not
22 the Griggs case. The Griggs case is the one that Judge
23 Friot remanded to Logan County.

24 THE COURT: So the West case is still pending; is
25 that correct?

1 MR. COTTINGHAM: Yes, Your Honor. The West case
2 is still pending.

3 The other basis for stay is based on the Reid case
4 that you just mentioned. So if you'd like us to take up the
5 motions to stay first, we'll be happy to do that.

6 THE COURT: I'd like to do that.

7 MR. COTTINGHAM: Okay. I'll turn this over to my
8 colleague, Leah Rudnicki, who will discuss the West case.
9 Then I will come back with an argument in regard to Reid.
10 Thank you.

11 MS. RUDNICKI: Good afternoon, Your Honor. Again,
12 my name is Leah Rudnicki, R-u-d-n-i-c-k-i. I represent
13 Eastok Pipeline LLC. In this motion, Equal Energy also
14 joined me and is represented by Edd Pritchett.

15 The motion to stay we brought, as Mr. Cottingham
16 pointed out, is based upon the West case that was filed in
17 federal court and is -- well, originally in state court,
18 then it was in federal court, and it's currently pending in
19 Judge Friot's court up there. Motions to dismiss were --
20 that was filed back in February of 2016, and right now it's
21 gone through its second round of motions to dismiss,
22 responses and replies, and is waiting on a ruling from
23 Judge Friot. So that's the procedural history and posture
24 of where the West case is.

25 In the motion for summary -- in the motion to

1 stay, the key issue for you to look at today is whether or
2 not those two cases have substantial similar parties and
3 substantial similar claims. We brought the motion under
4 2012(B)(8) which is actually a motion to dismiss but, in the
5 cases we cited, *McCutcheon* and *Patel*, which were Oklahoma
6 Civil Appellate cases that applied 2012(B)(8), those cases
7 they dismissed it, the second case, like I'm asking you to
8 do. But we're only asking you to stay the case because, in
9 this situation, we have a class action pending in federal
10 court where there -- in West, they're seeking a class of
11 plaintiffs and a class of defendants. The class of
12 plaintiffs is so broad it would subsume all of the
13 plaintiffs, the 52 plaintiffs that are in this case, if it
14 was certified.

15 Secondly, under the defendant's side, the class is
16 so broad, it encompasses all operators of oil and gas wells,
17 injected wells -- injection wells, that are operating within
18 a 26 county area, with Payne County being in the middle of
19 those 26 counties. So the class, if certified, of
20 plaintiffs would subsume the plaintiffs in this case and, if
21 the class of defendants were certified, it would subsume the
22 defendants in this case.

23 The reason why we brought the case is because we
24 are named defendants in both cases. As you might imagine,
25 defendants who are not named in the West case do not want to

1 implicate themselves in the West case, if they have not been
2 named yet. However, if that class of defendants, as
3 requested in the West case, is certified, all of the
4 defendants in this case will be a part of that defendant
5 class, and that's how you end up with two same parties in
6 this case and in that case.

7 THE COURT: Thank you.

8 MS. RUDNICKI: As to the claims, I did a quick
9 little reference for you, because the petitions in both
10 cases are quite long. May I approach?

11 THE COURT: You may.

12 MS. RUDNICKI: The first page of the presentation
13 is just the motion to stay and the standard. The standard
14 that was cited by defense in their response -- or the
15 plaintiffs in their response to the motion to stay, cites a
16 U.S. case, United States Supreme Court, *Landis* case. They
17 say that the standard for you to determine is not a
18 discretion with substantially same case and same parties,
19 but that your standard is based upon whether or not there
20 would be a hardship so bad to them that they -- that it
21 would be horrible and they couldn't move forward. In fact,
22 in the *Landis* case, they actually found that a stay should
23 be -- was appropriate and they did stay in that case under
24 similar circumstances as ours.

25 Another case that they cited, to say that the

1 first-filed rule does not apply here, was a federal case a
2 *Whataburger* case in which the plaintiffs had argued that
3 it -- the first-filed rule should not apply and the Court
4 examined -- a federal fifth circuit court examined whether
5 or not, in that case, the first-filed case should not go
6 forward, and it was a bankruptcy case that was the
7 first-filed case. It was a question of jurisdiction,
8 whether the second-filed case would be included in
9 jurisdictionally for the first-filed case. The fifth
10 circuit said, no, that's not part of the first-filed rule,
11 and we're going to grant the motion to -- actually in that
12 case it was transfer, but under the same principles that I'm
13 asking you today to grant the motion to stay, which is that
14 since they have same parties, same claims, that all of the
15 rulings that you may make will be similar or the same or
16 potentially inconsistent with the rulings that Judge Friot
17 might make. So that's what the rule and the purpose is as
18 provided by the *Burks* Oklahoma Supreme Court case in early
19 1900's.

20 If you go to Slide 5, to determine whether or not
21 you have the same cause of action or the same action in
22 Oklahoma, as you probably know, is under the wrongful --
23 same alleged wrongful act or current standard. In this
24 case, I've created a chart here where it has the West action
25 on one side and the Butler action on the other.

1 These are quotes taken from each of the petitions
2 to show that they are substantially similar if not the same.
3 They have their same earthquakes at issue, the Pawnee
4 earthquake and the Cushing earthquake, and they use the same
5 dates, the same magnitude, et cetera, in each one. I've
6 cited the places in the petition for each of those. And the
7 alleged wrong that's alleged in each one of them is also
8 earthquakes caused by defendants.

9 So this is a circumstance under which you have the
10 discretion to grant a stay pending what happens in the West
11 case.

12 There's a visual on Page 7 that just outlines the
13 area of the 26 counties and then the rest.

14 The real crux, Your Honor, to think about when
15 you're looking at whether or not you should exercise your
16 discretion on the motion to stay is do we -- will we or is
17 it possible that we're going to end up with inconsistent
18 rulings in these two cases, with two different judges
19 looking at and examining the same earthquakes, the same
20 issues, the same causes. Like you said, you already looked
21 at the motion to dismiss in Reid and you expect them to be
22 the same in this case.

23 All of those types of things is what leads the
24 Court to think about whether or not they should stay one
25 action in favor of another action. The only thing that's

1 different in the cases between West and in Butler are the
2 plaintiff lawyers. Thank you.

3 THE COURT: Let me hear the Reid argument, and
4 then I'll let the plaintiff respond.

5 MR. COTTINGHAM: Thank you, Your Honor.

6 Dale Cottingham on -- we filed a motion to stay on
7 behalf of White Star, FHA, and Crown. As the Court is
8 aware, there's a Reid case that currently pends. It is a
9 putative class action. It pends in Payne County. It is
10 before you. We argued those motions to dismiss last May,
11 May 31 to be precise.

12 The issues that pend in this case, the defendant
13 group in this case, five of those defendants are the only
14 defendants in the Reid case. So there's a clear overlap
15 between defendants in the Reid case and defendants in this
16 case. Additionally, the Reid case, the putative class
17 action, that case names DOES, additional defendants that are
18 not named. When you compare the language in that putative
19 class action in the Reid case, the language describing who
20 the DOES are, they fit all the rest of the defendants here
21 today, every one of them. They could potentially and
22 probably, I will go so far, be defendants in the Reid case.

23 Further, the allegations in the Reid case in terms
24 of factually, the factual allegations, are identical to this
25 Butler case, the Pawnee quake and the Cushing quake. That's

1 the center of gravity, if you will, of the Reid causes of
2 action. That is the episode or event that gives rise to the
3 claims. Same thing in regard to Butler, just those two
4 quakes.

5 Additionally, in regard to Reid, while the causes
6 of action are the same, they're identical, the legal
7 theories that are advanced are virtually identical. You can
8 down the list of claims, it's the same. It's gross
9 negligence. It's negligence. It's private nuisance.

10 There are a couple of changes that they have
11 asserted here in this case. For example, they made a claim
12 regarding public nuisance in this case, the Butler case. In
13 the Reid case, it's a private nuisance. However, the
14 gravamen, the essential nature of what's going to be heard
15 by this Court is the facts are the same.

16 Furthermore -- I've done quite a bit of work in
17 regard to nuisance. Back in the pollution days, I was very,
18 very active defending oil and gas companies in pollution
19 actions. So I've done a lot of writing particularly in
20 regard to nuisance, both private and public nuisance. One
21 of the things the Court needs to keep in mind is that the
22 damage amounts, that is how damages are calculated on a
23 private nuisance claim are identical to a public nuisance
24 claim.

25 So the facts that will be elicited and evaluated

1 by the Court or potentially by a trier of fact will be the
2 same in Butler as they are in Reid.

3 The basis on which the Court can exercise -- And
4 it's clear; even the plaintiffs agree with this -- the Court
5 has discretion to exercise, or it can exercise discretion to
6 stay this matter. The basis for the exercise though is
7 disputed. Plaintiffs argue the Supreme Court case saying
8 that really you have to -- like my colleague said, you have
9 to look at whether or not we, as a plaintiff class, are
10 damaged. That has not been accepted by Oklahoma.

11 Oklahoma has the first-to-file rule. The Reid
12 case was filed 11 months before the Butler case. The
13 first-to-file rule has been adopted not only by the
14 statutory authority we cited, which was 1208 Section B, but
15 also the *Patel* case, which is a COCA -- that is Court of
16 Civil Appeals -- case, 2015. It says the dispositive issue
17 in determining if abatement -- that is a stay -- should be
18 granted is whether the duplicative action was pending when
19 the action sought to be abated was filed.

20 Additionally, this first-to-file rule, which is
21 the basis of this Court's discretion, has been adopted by
22 the committee notes under Section 2012. It's clear to us
23 that the Oklahoma Legislature made an overt decision to
24 codify the first-to-file rule.

25 Additionally, this notion of abatement, the

1 exercise of that discretion, is on the basis of not exact
2 duplication, but rather are the cases substantially the
3 same. The facts that I've already recited to you suggest
4 clearly that both the Butler case -- that the Butler case is
5 substantially the same as the Reid case.

6 Your Honor, we have requested that the Court stay
7 the Butler case as opposed to dismiss the Butler case. We
8 think that's the proper decision here particularly because
9 Reid pends.

10 These plaintiffs that are represented by counsel
11 today, if there is a class cert -- a certified class in
12 Reid -- We're not conceding that, of course. That's not the
13 argument today. It's not the issue today. But if a class
14 is certified, these plaintiffs, under Oklahoma law, will
15 have opportunity not to opt in but rather they would have to
16 physically, clearly provide notice they're opting out;
17 otherwise, they're in.

18 The point is we're not there yet in terms of the
19 sequence of time. The proper thing to do is to stay this
20 action and to allow the Reid case to proceed. It is
21 proceeding.

22 I will say one other thing in regard to the Reid
23 case. Plaintiffs' counsel in the Reid case, in their
24 petition, say that individual actions on behalf of property
25 owners, and particularly in Payne County, should not proceed

1 but rather have the cases proceed all as one to not result
2 in inconsistent determinations. I would say that that
3 certainly is a danger that the Court needs to consider in
4 having two cases proceed simultaneously along the
5 (inaudible) track. We think the thing to do is to stay the
6 action based on Reid. Thank you, Your Honor.

7 THE COURT: Ms. Behrle, do you wish to respond?

8 MS. BEHRLE: Good morning, Your Honor.

9 So we brought this case not as a class action but
10 as individual plaintiffs because they all live in different
11 specific areas, they've all suffered different harms, and
12 they all have different damages and different defendants who
13 have caused that harm.

14 If the motion to stay was granted, it would cause
15 our plaintiffs great hardship, as a lot of them are living
16 in uninhabitable situations right now. A tactic just to
17 further delay, you know, the legal remedies is consequential
18 to them.

19 I believe that first-to-file is not applicable
20 here, as it is generally used in just the federal cases.
21 Again, I understand that you have the discretion to use it,
22 but I do feel that the cases are not duplicative, and I
23 don't think that there would be inconsistent holdings
24 because of the different defendants. One holding with 26
25 defendants versus just five is going to be different just

1 based on their conduct, which we're alleging was negligent.
2 So, therefore, I believe a motion to stay should be
3 overruled.

4 THE COURT: Anything further on behalf of the
5 defendants?

6 MR. COTTINGHAM: I would just add, Your Honor,
7 that maybe counsel should appear and argue on the class
8 certification issues. She's telling us that there are
9 individual damages, so I guess they're individual issues.

10 The point is nothing I heard from plaintiffs'
11 counsel would suggest to me that there's a reason not to
12 stay the Butler case.

13 THE COURT: As it relates to the Reid case, the
14 Court concurs in that I believe that the issues are almost
15 identical, if not identical. The only difference is the
16 public and private nuisance issue, but the causation would
17 be the same.

18 The main argument on that matter is that, if this
19 Court certified that case, then these plaintiffs in Butler
20 would be joined into that matter. I will say that I
21 believe, just in my opinion, that plaintiffs in the Reid
22 case, you're going to have a hard time certifying this
23 matter before this Court. I'm not ruling that out
24 completely in this matter, but I don't believe personally
25 that it's going to get there.

1 So, as it relates to that particular issue, the
2 Court believes that the Butler plaintiffs are entitled to
3 have their attorneys represent them and to proceed on with
4 discovery.

5 However, as it relates to the Reid matter, the
6 Court will -- or the --

7 MS. RUDNICKI: West.

8 THE COURT: -- West matter -- Thank you. Too many
9 cases -- the West matter, the Court believes that's a
10 different issue. The Court believes that, if the federal
11 court took that case and certified, all plaintiffs and all
12 defendants would be involved in that matter and the Court
13 believes that these cases would go to the federal court.
14 That would make this Court very happy if that were to occur,
15 but I'm not going to hold my breath on that, as I anticipate
16 I'll probably be addressing all the matters subsequently.

17 What I'm going to do at this time, I'm going to
18 stay these proceedings as it relates to the West case to see
19 how that case progresses. If the court accepts that case
20 and certifies it as a class action, then I believe that
21 these cases would go to that court for further proceedings.
22 If the federal court does not take the case or does not
23 certify it, then I think we'll be proceeding on here. Then
24 I'll have the issue subsequently, assuming it gets that far,
25 to determine how the cases should be consolidated for

1 discovery or how they should be addressed by bellwether or
2 whatever we want to do as far as how we try the matters.
3 That's way down the road at this point.

4 So I'm going to stay it as it relates to the
5 federal case, once that issue is resolved. If they deny it,
6 then we'll come back here and proceed on with discovery and
7 how we need to go from there.

8 MR. COTTINGHAM: Your Honor, I'm going to ask a
9 question of the Court. I believe that you're holding in
10 abeyance then the motions to dismiss that have been filed?

11 THE COURT: Technically yes, but I would say that
12 I anticipate ruling the same way as I did in the Reid
13 matter.

14 MR. COTTINGHAM: I understand.

15 THE COURT: Now there are some other issues as it
16 relates to the bankruptcies. I'm going to stay those as
17 well, and I'll have to readdress those subsequently, once
18 those issues are resolved. Those are issues I think that
19 are ripe for me to consider.

20 MR. T. BOMHOFF: Your Honor, do you want to wait
21 on that until the West case proceeds, or do you want us to
22 set those?

23 THE COURT: I want to stay those until the West
24 case is resolved.

25 MR. T. BOMHOFF: Okay. Thank you, Your Honor.

1 MR. PRITCHETT: Your Honor, with regard to the
2 Midstates, we filed our motion to stay on that, pending a
3 motion to enforce that was filed in the bankruptcy court
4 where they're trying to get the bankruptcy judge to
5 determine whether these claims were part of the bankruptcy
6 or not. If that court makes that decision, can we come
7 back -- I guess I'm trying to figure out, do you want us to
8 come back and present that ruling to you and maybe, at that
9 time, if we haven't reached an agreement, move to dismiss
10 or --

11 THE COURT: I think I'm staying these total
12 proceedings pending the federal court. So, if federal court
13 kicks it back, then let's bring those issues up and, of
14 course, I think I'll be bound by what the bankruptcy court
15 rules as far as that issue goes.

16 MR. PRITCHETT: I just didn't know whether you
17 wanted us to bother you until the West decision.

18 THE COURT: Just stay everything until the West
19 case is resolved.

20 MR. PRITCHETT: All right. Thank you, Judge.

21 MR. MORGAN: Your Honor, given the arguments that
22 the Court heard here today, with respect to the Logan County
23 matter as well, which many of the defendants are the same
24 defendants in that, would we anticipate that the Court would
25 stay that matter as well pending the West ruling?

1 THE COURT: I'll be honest, I don't know that the
2 Logan County case is mine. I don't know if it's mine or
3 Judge Duel's.

4 MR. MORGAN: Yeah. It's yours, Your Honor.

5 THE COURT: It is mine?

6 MR. MORGAN: Yes, sir.

7 THE COURT: You can anticipate the same ruling
8 then if it's mine, that we'd be staying it pending the West
9 decision.

10 MR. MORGAN: Okay. Thank you, Your Honor.

11 MS. RUDNICKI: For the journal entry that gets
12 entered, is it stayed pending certification or pending --

13 THE COURT: Pending West.

14 MS. RUDNICKI: That's what I was just kind of
15 getting the nuance of just in case.

16 THE COURT: Well, I think -- I assume that -- And
17 you guys correct me if I'm wrong because you know more about
18 it than I do. I'm assuming the first issue is going to be
19 whether or not the federal court takes the case, and then it
20 will decide on certification. So, if it doesn't take the
21 case, then I think it's back down --

22 MS. RUDNICKI: So it's -- Sorry to interrupt. So
23 it's stayed pending either dismissal or certification,
24 whichever comes first?

25 THE COURT: Correct. I'm assuming, if they don't

1 certify it as a class action, then the issue is back before
2 me as far as these cases go.

3 MS. RUDNICKI: Agreed.

4 THE COURT: And even though it's not before me
5 today, I would assume the same issue, should you re-raise
6 it, would be the case in the Reid matter is that I would be
7 staying it pending the West case as well. So you may want
8 to discuss that with plaintiffs' counsel, and they can be
9 aware of that. You may need to reurge it and file something
10 in that case.

11 Anything else that needs to be addressed by any
12 party on the record at this time?

13 MR. COTTINGHAM: We will submit a journal entry
14 first to plaintiffs' counsel.

15 MR. T. BOMHOFF: No, Your Honor.

16 MR. MORGAN: We have nothing further, Your Honor.
17 May we be excused?

18 THE COURT: With that then, the parties may be
19 excused and we'll be adjourned.

20 MR. COTTINGHAM: Thank you, Your Honor.

21 (End of proceedings)
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IN THE DISTRICT COURT OF PAYNE COUNTY
STATE OF OKLAHOMA

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JAMES BUTLER, an individual;)
ETHEL CHISUM, an individual;)
C.W. COLLINS, an individual;)
JERRY CRAMER, an individual;)
LINDA DAVIDSON, an individual;)
LESLIE EARNEST, an individual;)
RONALD EARNEST JR, an individual;)
BILLY FANNING, an individual;)
JACQUELINE FARROW, an individual;)
RODNEY FARROW, an individual;)
CHARLES FERGUSON, an individual;)
BARBARA FOSTER, an individual;)
TINA HOLLAND, an individual;)
DAVID HUMPHREY, an individual;)
DAVID JARRETTE, an individual;)
JENNIFER JARRETTE, an individual;)
KIMBERLY KEETON, an individual;)
WILLIAM KEETON, an individual;)
ABBY MACKIE, an individual;)
EDWARD MACKIE, an individual;)
PORTER MAGBY, an individual;)
LAURA MATHES, an individual;)
MICHAEL MAYS, an individual;)
MARTINEZ MCKINNEY SR, an individual;)
LYNDA MCPHETERS, an individual;)
RAYMOND MCPHETERS, an individual;)
JUDITH MILLER, an individual;)
LILA MITCHELL, an individual;)
BEVERLY MORGAN, an individual;)
CYNTHIA MOTA, an individual;)
DORIS MYERS, an individual;)
JAMES MYERS, an individual;)
JASON OWENS, an individual;)
MARILYN JOYCE PARLIER, an individual;)
TERRY PHILLIPS, an individual;)
JAMES PIKE, an individual;)
TIA REEDY, an individual;)
BARBARA RICH, an individual;)
JAMES RICH, an individual;)
KATHRINE RUNOWSKI, an individual;)
RICHARD RUNOWSKI an individual;)
TAMMY SEARS, an individual;)
RYAN SEWELL, an individual;)
DEWAYNE SHARPTON, an individual;)
ROBERT SMITH, an individual;)
KAREN THOMPSON, an individual;)
ROY THORNHILL, an individual;)

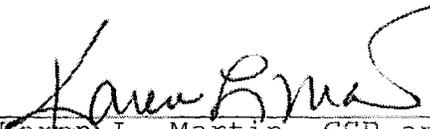
CASE NO. CJ-2017-469

1 DOROTHY WARE, an individual;)
 JOHNNY WARE, an individual;)
 2 MELBA WHITT, an individual;)
 JAYSON WRIGHT, an individual;)
 3 AMELIA WYNN, an individual;)
)
 4 Plaintiffs,)
 v.)
 5)
 BEREXCO LLC; CHAPARRAL ENERGY LLC;)
 6 CHER OIL COMPANY LTD; CHESAPEAKE)
 OPERATING LLC; CIMARRON RIVER)
 7 OPERATING CORP; CIRCLE 9 RESOURCES)
 LLC; CROWN ENERGY COMPANY; EASTOK)
 8 PIPELINE LLC; EQUAL ENERGY US INC;)
 FHA INVESTMENTS LLC; INTERNATIONAL)
 9 ENERGY CORPORATION; KOBY OIL COMPANY)
 LLC; MARJO OPERATING MID-CONTINENT)
 10 LLC; MID-CON ENERGY OPERATING LLC;)
 MIDSTATES PETROLEUM COMPANY LLC;)
 11 MONTCLAIR ENERGY LLC; OAKLAND)
 PETROLEUM OPERATING COMPANY INC;)
 12 ORCA OPERATING COMPANY LLC; PETCO)
 PETROLEUM CORP; PETRO WARRIOR LLC;)
 13 RANGE PRODUCTION COMPANY LLC; SHIELDS)
 OPERATING INC; SPECIAL ENERGY CORP;)
 14 TARKA ENERGY LLC; TERRITORY RESOURCES)
 LLC; WHITE STAR PETROLEUM LLC;)
 15 and DOES 1-25, Inclusive,)
)
 16 Defendants.)

17
18 CERTIFICATE OF THE COURT REPORTER

19 I, Karen L. Martin, Certified Shorthand Reporter
and Official Court Reporter for Payne County, do hereby
20 certify that the foregoing transcript in the above-styled
case is a true, correct, and complete transcript of my
21 shorthand notes of the proceedings in said cause.

22 Dated this 14th day of February, 2018.

23
 24 
 25 Karen L. Martin, CSR and
 Official Court Reporter in
 and for the State of Oklahoma



Karen Martin
 State of Oklahoma
 Certified Shorthand Reporter
 CSR #1557

26
 All Certificate Expires 12-31-2018