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ATTORNEYS FOR DEFENDANT

STATE OF WYOMING)
) ss
COUNTY OF CAMPBELL)

IN THE DISTRICT COURT

SIXTH JUDICIAL DISTRICT

KENNETH B. GEER,)
)
Plaintiff,)
)
vs.)
)
ANADARKO E&P ONSHORE LLC,)
Successor to Lance Oil & Gas Company,)
Inc., a Delaware Corporation,)
)
Defendant.)

Civil Action No. 32940

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO
SUPPLEMENT EXPERT WITNESS REPORT**

Defendant Anadarko E&P Onshore LLC, formerly known as Lance Oil & Gas Company, Inc. (Lance), by and through its attorneys Holland & Hart, LLP, respectfully moves the Court for an order denying Plaintiff’s untimely request to supplement the flawed designation of James Steven Wilson.

For the reasons already explained in Defendant's Motion to Strike Plaintiff's Rule 26(a)(2) Designation of James Steven Wilson, filed August 9, 2013 (incorporated by reference in this Response), Mr. Wilson's previous expert reports were based on unqualified non-expert opinion, used unreliable methods, and contained a host of errors to the point that Mr. Wilson testified the Court should not rely on his reports.

Understandably, Plaintiff is trying to minimize the gravity of the errors made by Mr. Wilson and not acknowledging the root causes of Mr. Wilson's difficulties. Mr. Wilson is not qualified to give any tax opinions, cannot give royalty underpayment opinions needed to support Plaintiff's breach of contract theory, and was overwhelmed by the massive and complex royalty accounting data that he did not know how to use and did not use properly. Mr. Wilson's errors, one of which amounts to over \$417,000, and the others that Mr. Wilson has not quantified, can hardly be considered "minor" as Plaintiff wishes. Pl.'s Mot. to Supplement Expert Witness Report (Pl. Mot.) at 3.

Plaintiff attempts to shift blame from Plaintiff to Lance's "delay in producing data." Pl. Mot. at 4. However, as Mr. Wilson acknowledged in his supplemental expert report of June 7, 2013 and in his deposition, he had everything he needed to do his calculations. Defendant's expert, Mr. Zeeb, explains that Mr. Wilson did not understand the data or how to use it. Zeeb Aff. at ¶¶ 7, 8. Further, Mr. Wilson received additional data no later than July 2, 2013 but did not attempt to supplement his calculations before his deposition on July 25, 2013. Mr. Wilson also knew of at least one problem with the reliability of his report but failed to indicate a caveat or warning in his report to advise the parties and the Court.

Mr. Wilson's methods and tools to perform reliable calculations for this Class Action are hopelessly inadequate to the task. Allowing Mr. Wilson to attempt to "supplement" (i.e., re-do) his report creates "a high probability of these errors happening again" when Mr. Wilson faces more challenges in attempting to deal with an additional 84.9 million records, four times larger than the data Mr. Wilson already used incorrectly the last time. Zeeb Aff. at ¶¶ 13, 14.

Discovery closed August 1, 2013. It is time to move on with the case and not stall it in hopes that Mr. Wilson will get it right. Ironically, Plaintiff cites justice and fairness as reasons for the Court to excuse Plaintiff's neglect. To the contrary, it is Lance and the Court who will be unfairly prejudiced by allowing Mr. Wilson to start over and have Lance go to the time and significant expense in order to determine and point out the new errors and unreliable methods contained in a new report. That conclusion is most compelling when considering that Mr. Wilson admits that his calculations have nothing to do with Class Members' damages for breach of contract anyway.

WHEREFORE, Lance requests the Court deny Plaintiff's Motion to Supplement. In the alternative, Lance requests the Court order Plaintiff to pay Lance's expenses to uncover the errors and flaws in Mr. Wilson's designation and new supplement if permitted.

DATED August 12, 2013.



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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2013, I served the foregoing **DEFENDANT'S
RESPONSE TO PLAINTIFF'S MOTION TO SUPPLEMENT EXPERT WITNESS
REPORT** by hand-delivery to the following:

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