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as defined herein

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE: Rockies Region 2006 Limited Partnership and Rockies Region 2007 Limited Partnership, *Debtors*.	Case No. 18-33513 Chapter 11 Jointly Administered

OBJECTION TO DEBTORS' EXPEDITED MOTION TO EXCLUDE EXPERT REPORTS AND TESTIMONY OF GREGORY E. SCHEIG

Robert R. Dufresne, as Trustee of the Dufresne Family Trust; Michael A. Gaffey, as Trustee of the Michael A. Gaffey and JoAnne M. Gaffey Living Trust dated March 2000; Ronald Glickman, as Trustee of the Glickman Family Trust established August 29, 1994; Jeffrey M. Schulein, as Trustee of the Schulein Family Trust established March 29, 1989; and William J. McDonald as Trustee of the William J. McDonald and Judith A. McDonald Living Trust dated

April 16, 1991 (collectively, the "LP Plaintiffs") file this objection to the Debtors' *Expedited Motion to Exclude Reports and Testimony of Gregory E. Scheig* ("Motion") (Doc. 192), and respectfully state as follows:

PRELIMINARY STATEMENT

1. Debtors' Motion should be denied in its entirety for several reasons. First, a debtor's solvency is one factor that courts within the Fifth Circuit have found supports bad faith. As such, Gregory E. Scheig's ("Scheig") opinions on the solvency of Debtors are relevant to whether these cases were filed in bad faith. Second, Scheig's opinions on solvency are relevant as to whether these bankruptcy cases should have been filed at all, as those opinions show that Debtors' managing general partner, PDC Energy, Inc. ("PDC"), has sufficient cash to fund Debtors' obligations. Third, Scheig's opinions in his May 28, 2019, "Supplemental / Rebuttal Report" ("Supplemental Report") are relevant as to whether PDC is responsible for funding such obligations. Fourth, the filing of the Supplemental Report after the rebuttal report deadline is substantially justified because it was filed in response to testimony and opinions provided by Karen Nicolaou[1] ("Nicolaou") during her May 7, 2019, deposition—which took place after the May 6, 2019, deadline for rebuttal reports. Fifth, the Debtors' request to exclude Scheig's solvency opinions should be denied because the request is untimely per the Court's Scheduling Order (Doc. 135), which requires such a request to be made at or before the May 29, 2019, status conference. Finally, the Supplemental Report's conclusion regarding PDC's responsibility to pay Debtors' drilling costs is not an impermissible legal opinion but is an opinion that arises from Scheig's expertise in the area of oil and gas drilling.

[1] Nicolaou is the individual currently seeking appointment as the "Responsible Party" for Debtors. (Doc. 12.)

BACKGROUND

2. On October 30, 2018, bankruptcy petitions were filed on behalf of both the Rockies Region 2006 and Rockies Region 2007 Limited Partnerships (together, the "Partnerships" or "Debtors") commencing these bankruptcy cases.

3. On December 3, 2018, the LP Plaintiffs moved to dismiss these cases partly on the grounds that they were filed in bad faith. (Doc. 85.) Subsequently, on March 22, 2019, the LP Plaintiffs filed an *Amended Motion for Dismissal of Chapter 11 Case* (Doc. 140.) ("Dismissal Motion"). As shown in the LP Plaintiffs' Dismissal Motion, solvency is one factor a bankruptcy court may consider in determining whether a Chapter 11 petition was filed in bad faith. (Doc. 140 at 23–25.) The LP Plaintiffs maintain that both Partnerships are solvent given the value of the assets of their managing general partner, PDC. The LP Plaintiffs also contend that one of the main reasons given by Nicolaou for the Partnerships' bankruptcy filings is invalid. Specifically, Nicolaou asserts that the Partnerships' plugging and abandonment liabilities are too large for the Partnerships to cover and must be resolved in bankruptcy. (Doc. 10 at 6 (The Partnerships "have grossly insufficient cash available to fund their respective" plugging and abandonment liabilities").) However, it is LP Plaintiffs' contention that PDC is not only responsible for these costs, but has sufficient cash to cover these costs and, therefore, such costs are not a valid reason for pushing the Partnerships into bankruptcy.

4. To support the LP Plaintiffs' arguments on the Partnerships' solvency and plugging and abandonment costs, the LP Plaintiffs engaged Scheig as an expert witness. Pursuant to the Court's Scheduling Order governing the pending matters, on April 12, 2019, the LP Plaintiffs identified Scheig as a possible witness at trial on its "List of Initial Witnesses" exchanged with Debtors' and PDC's counsel. On April 22, 2019, the LP Plaintiffs provided Scheig's expert report

("Report") to Debtors and PDC. The Report sets forth five individual conclusions:

1. PDC was solvent on October 30, 2018,
2. The RR 2006 LP was solvent on the Bankruptcy Date (considering the value of the claims and the value of the GP, PDC),
3. The RR 2007 LP was solvent on the Bankruptcy Date (considering the value of the claims and the value of the GP, PDC),
4. PDC realized a significantly higher marginal profit in producing one BOE from its wells in the Wattenberg, as compared to PDC's profit realized from a single BOE produced by the Partnerships in which PDC had only a 37% interest,
5. Had PDC charged to the Partnerships lease operating expenses in line with its own lease operating expenses in the Wattenberg, on a dollars per BOE basis, the wells in the Partnership would have been much more profitable for the limited partners.

5. The LP Plaintiffs and Debtors have stipulated that conclusions four and five will be excluded from the Court's consideration of the Dismissal Motion and Nicolaou's application to be employed as "Responsible Party" for the Partnerships ("Employment Application") (Doc. 12). (*See* Doc. 186.)

6. On May 7, 2019, the LP Plaintiffs took Nicolaou's deposition. At that deposition, the LP Plaintiffs' counsel, Mark Weisbart, asked Nicolaou whether PDC, as the managing general partner, "has to pay plugging costs to plug and abandon the partnership wells." May 7, 2019, Deposition Transcript of Karen Nicolaou ("Nicolaou Depo.") at 150.[2] Nicolaou responded that PDC is responsible for such costs "[t]o the extent that plugging and abandonment is a drilling cost." *Id.* at 151. Due to this testimony, and related testimony from the deposition of Darwin Stump ("Stump") (vice president of accounting operations at PDC), the LP Plaintiffs asked Scheig to render a supplemental opinion on whether plugging and abandonment costs are drilling costs.

7. On May 28, 2019, the LP Plaintiffs provided the Supplemental Report prepared by Scheig to Debtors and PDC. The Supplemental Report states that plugging and abandonment costs

[2] Relevant portions of Nicolaou's deposition transcript are attached hereto as "Exhibit A."

are drilling costs as those costs "reflect the final intangible drilling cost incurred in the process of drilling a well." Motion, Exhibit C.[3] Scheig's opinion is based on his own knowledge as a Certified Public Accountant and petroleum engineer, the deposition testimony of Nicolaou and Stump, and the IRS's Oil and Gas Handbook.

8. The Debtors now seek to exclude Scheig's Report and the Supplemental Report in its entirety, as well as his testimony, from the trial on the Dismissal Motion and Employment Application. In sum, Debtors argue that (1) solvency, and, therefore, Scheig's opinions on solvency, are not relevant to whether the Chapter 11 petitions were filed in bad faith; (2) Debtors are willing to stipulate to the solvency of PDC and the Partnerships, so any opinion on solvency is not helpful; (3) the Supplemental Report is untimely; and (4) the Supplemental Report's conclusion is an impermissible legal opinion. In making these arguments, Debtors ignore relevant facts and mispresent the applicable law.

DISCUSSION

A. The Standard of Relevance is a Liberal One.

9. Under the Federal Rules of Evidence: "Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." FED. R. EVID. 401. It is well-established that this standard rule of relevance is to be applied liberally. *See, e.g., Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 587 (1993).

10. For an *expert's* testimony to be relevant, his or her "reasoning [must] be properly

[3] For ease of the Court and the parties, the LP Plaintiffs will not attach the entire Report and Supplemental Report as exhibits to this Objection. Instead, the LP Plaintiffs will cite to the appropriate exhibit in the Debtors' Motion when the LP Plaintiffs need to cite to one of the reports.

applied to the facts in issue." *Id.* at 589. When performing this analysis, the court's main focus should be on determining whether the expert's opinion will assist the trier of fact. *See Peters v. Five Star Marine Serv.*, 898 F.2d 448, 449 (5th Cir. 1990) (citing FED. R. EVID. 702 advisory committee's notes (1972)). Assisting the trier of fact means that the proffered expert brings something "more than the lawyers can offer in argument." *Salas v. Carpenter*, 980 F.2d 299, 305 (5th Cir. 1992) (internal quotation marks and citation omitted). Importantly, the Fifth Circuit has held that the "helpfulness threshold is low: it is principally … a matter of relevance." *E.E.O.C. v. Boh Bros. Construction Co.*, 731 F.3d 444, 459 n.14 (5th Cir. 2013) (en banc) (internal quotation marks and citation omitted).

B. Scheig's Opinions on Solvency are Relevant to Whether the Chapter 11 Cases were Filed in Bad Faith.

11. Given the liberal standard of relevance outlined above, the Report and Scheig's testimony related to the Report are relevant to the Court's determination of whether the Partnerships' bankruptcy petitions were filed in bad faith, as argued in the LP Plaintiffs' Dismissal Motion.

12. In their Motion, Debtors falsely assert that solvency is not relevant to the bad faith argument in the Dismissal Motion. Motion at 9. Debtors cite to three cases outside of the Fifth Circuit,[4] all of which are more than twenty years old, for the proposition that insolvency is not a requirement for filing Chapter 11 and that it is not bad faith for a solvent debtor to file a Chapter 11 petition. *Id.* However, Debtors conveniently omit any discussion of the case law provided by the LP Plaintiffs in their Dismissal Motion, which clearly shows that a debtor's solvency supports

[4] These cases are: *In re SGL Carbon Corp.*, 200 F.3d 154 (3d Cir. 1999), *In re Cohoes Indus. Terminal*, 931 F.2d 222 (2d Cir. 1991), and *In re Johns-Manville Corp.*, 36 B.R. 727 (Bankr. S.D.N.Y. 1984).

a finding of bad faith. Specifically, as recent as 2014, the U.S. District Court for the Northern District of Texas held that a Chapter 11 filing was in bad faith because the petition was filed to "gain a litigation advantage" and the debtor was solvent. *See Investors Group, LLC v. Pottorff*, 518 B.R. 380, 384–85 (N.D. Tex. 2014). Relying on the Bankruptcy Code's definition of solvency (11 U.S.C. § 101(32)(A)), the district court found that the bankruptcy court did not err in finding the debtor solvent, which supported a finding of bad faith. *Id.* Accordingly, while there is no authority that states that solvency on its own proves bad faith, solvency is an *important factor* and may show bad faith when combined with one of the other bad faith factors discussed in the Dismissal Motion. *See id.* Here, the Partnerships' solvency, while not dispositive, is undoubtably relevant to whether these Chapter 11 cases were filed in bad faith. Thus, The Report's opinions on solvency are relevant to the issues before the Court.

C. The LP Plaintiffs' Never Agreed to Debtors' Proposed Stipulation and that Proposed Stipulation does not Render Scheig's Opinions Irrelevant to the Dismissal Motion.

13. Debtors claim that, because they are willing to stipulate to their own solvency, Scheig's solvency opinions in the Report are not helpful to the Court. This is untrue. First off, there is no agreement over Debtors' proposed stipulation. Debtors' proposed stipulation is an attempt to sweep Scheig's solvency opinions under the rug so that the Court does not fully consider the underlying facts and implications of those opinions. The Report's solvency opinions are not just relevant to the technical solvency of the Partnerships, but also to PDC's motive for pushing the Partnerships into bankruptcy and goes directly to the issue of bad faith. Specifically, the Report shows that PDC, as managing general partner, can easily fund the Partnerships' obligations as they arise. For example, Nicolaou estimates that the total plugging and abandonment liability is $1,656,000 for RR2006 and $1,879,000 for RR2007. (Doc. 10 at 6.) However, per the Report, PDC's assets are valued at $2.7 billion and the forecasted cashflows from its operations are $847

million in 2019, $954 million in 2020, and $1.3 billion in 2021. As such, the Partnerships should not be in bankruptcy if their managing general partner can, and by operation of law and the express terms of the partnership agreements must, pay the Partnerships' plugging and abandonment costs. The fact of solvency alone is not the only relevant issue, but also the extent to which PDC can afford to fund the Partnerships' obligations—which PDC wants the Court to disregard. The Debtors should not be able to exclude the valuable analysis performed by Scheig regarding PDC's assets and the obligations of the Debtors by simply stipulating that PDC and the Debtors were solvent as of the filing date of the Chapter 11 petitions.

14. Additionally, the LP Plaintiffs plan on going through PDC's filings with the Securities and Exchange Commission ("SEC") with Scheig at trial. Doing so will help the Court understand PDC's financial state and its ability to pay the obligations of the Partnerships. Debtors' proposed stipulation does not address this. Moreover, Debtors and PDC likely will never stipulate to the Report's analysis regarding PDC's assets and cashflows. As such, the proposed stipulation, which is not agreed to by the parties and does not resolve all the issues presented by Scheig's Report, should not bar the Report and corresponding testimony.

D. Debtors' Dilatory and Untimely Motion to Exclude Scheig's Report is Prejudicial to the LP Plaintiffs.

15. Debtors' Motion is untimely and dilatory, causing severe prejudice to the LP Plaintiffs. The Motion is untimely because the arguments raised in the Motion regarding Scheig's solvency opinions should have been raised at the May 29, 2019, status conference. Under the Court's Scheduling Order, the parties were to address "any discovery disputes or other issues related to the Evidentiary Hearing [trial]" at the status conference. (Doc. 135 at 4.) The Scheduling Order also proclaims that "[a]ny Party seeking relief at the Status Conference must file a motion with the Court three (3) days prior to the Status Conference." *Id.* Debtors have had the Report since

April 22, 2019. Any objection or issue Debtors have with the Report should have been raised at the May 29 status conference. Any dispute over the Report clearly is a "discovery dispute[]" or "other issue[] related to the" trial. *See id.* Therefore, Debtors are in clear violation of the Scheduling Order by moving to exclude the Report and related testimony after the status conference. Because Debtors' violated the Court's scheduling order, their request to exclude the Report and related testimony should be denied.

16. Furthermore, the Motion is dilatory and, thus, prejudicial for several reasons. First, the LP Plaintiffs provided the Report to Debtors almost two months ago on April 22, 2019. Second, Debtors had the opportunity to depose Scheig regarding the opinions in his Report but did not do so. The LP Plaintiffs offered Scheig for deposition at various dates in May, which Debtors passed on. *See* Motion, Exhibit D. Third, Debtors have known that the LP Plaintiffs will not agree to their stipulation on solvency since May 13, 2019. *See id.* Given all this, Debtors had every reason and opportunity to file their Motion well in advance of the May 29th pre-trial status conference. Instead, Debtors filed their Motion just two weeks before trial, seeking a ruling the morning trial begins. There is no reason for Debtors to file their Motion so close to trial other than to prejudice the LP Plaintiffs by distracting them from their trial preparation with opposing the Motion. The LP Plaintiffs are also prejudiced because they now have to expend the time and cost to prepare Scheig as a witness without knowing whether the Court will allow admission of his Report and his testimony. This is the type of uncertainty and gamesmanship that the Scheduling Order's deadlines were intended to alleviate.

E. The Lateness of the Supplemental Report is Substantially Justified and Harmless to Debtors.

17. Debtors contend that the Supplemental Report is untimely given that it was circulated after the Court's May 6, 2019, deadline for expert rebuttal reports. However, a court

should not exclude an expert report if the failure to provide that report by the deadline was "substantially justified or harmless." *See Honey-Love v. U.S.*, 664 Fed. Appx. 358, 362 (5th Cir. 2016). Here, the circulation of the Supplemental Report after May 6 was both substantially justified and harmless.

18. First, it was impossible to provide the report before May 6th. The Supplemental Report is in response to, and primarily based on, the testimony given by Nicolaou and Stump at their respective depositions on May 7th and 15th respectively. Specifically, the Supplemental Report states:

> Since issuing my expert report on April 22, 2019, I have reviewed the following additional documents in this matter:
>
> 1. The rough draft transcript of the oral deposition of Karen Nicolaou, and
> 2. Excerpts from the rough draft transcript of the oral deposition of Darwin Stump.
>
> As a result of my review of this information, I have derived certain opinions regarding the drilling costs and liabilities of the partners of Rockies Region 2006 Limited Partnership ("RR 2006") and Rockies Region 2007 Limited Partnership ("RR 2007") (collectively, the "Partnerships").

Motion, Exhibit C.

19. Debtors conveniently ignore that the Nicolaou and Stump depositions occurred *after* the May 6 deadline for rebuttal reports. Scheig could not have addressed or rebutted testimony that was taken after the May 6 deadline. Given that the Supplemental Report could not have been prepared before the May 6 deadline, circulation of the Supplemental Report after the deadline was substantially justified.

20. Additionally, the transmission of the Supplemental Report after May 6 is harmless to Debtors. First, as discussed in the following section, the Supplemental Report does not contain an improper legal opinion.

21. Second, the Supplemental Report primarily concerns Debtors' own witness and purported "Responsible Party," Nicolaou. The Supplemental Report uses Nicolaou's own deposition testimony to conclude that the Partnerships' plugging and abandonment costs are drilling costs and, therefore, PDC is responsible for paying those costs. *See* Motion, Exhibit C. Thus, the content of the Supplemental Report is based on Debtors' own knowledge and should be of no surprise to Debtors. Further, the Supplemental Report supports an argument that Debtors are already aware of, which is that PDC is responsible for paying the Partnerships' plugging and abandonment costs and, thus, those costs are not sufficient for plunging the Partnerships into bankruptcy. Therefore, since the Supplemental Report mostly concerns Nicolaou's own testimony and issues already known to Debtors, Debtors should be fully prepared to address Scheig's testimony at trial.

22. Third, Scheig's testimony would not unfairly lengthen the trial. Debtors claim that Scheig's supplemental report will "lengthen the hearings on the Pending Matters and require additional preparation efforts." Motion at 11. However, Scheig's testimony is expected to require less than an hour and will actually save the Court and all parties' time by allowing the parties to immediately focus on the issues of drilling costs and PDC's responsibility to pay those costs. Scheig's testimony will also help the LP Plaintiffs quickly establish PDC's financial status.

23. On the other hand, it is the Debtors' untimely effort to have the Court entertain their unfounded Motion at the commencement of trial that will certainly delay trial and distract the Court and LP Plaintiffs' counsel from the merits of the pending matters. By the very uncertainty of the Court's ruling on the Motion, it is logical that the parties will prepare their case given the possibility that the relief will ultimately be denied. Put simply, Debtors' proposed solution—having the parties prepare for, and argue over Scheig's reports and testimony immediately prior to

the commencement of trial—saves no time compared to allowing such reports and testimony to be presented at trial.

F. The Supplemental Report's Conclusion is not a Legal Opinion.

24. Debtors claim that the Supplemental Report contains an impermissible legal opinion. This is not true. The opinions in the Supplemental Report are strictly based on Scheig's knowledge of drilling costs (as a petroleum engineer and CPA) and Stump and Nicolaou's own testimony at their respective depositions. The Supplemental Report employs this deposition testimony for the purpose of concluding that the Partnerships' plugging and abandonment costs are intangible drilling costs. Nicolaou testified at her deposition that PDC, as managing general partner of the Debtors, is responsible for paying plugging and abandonment costs "[t]o the extent that a plug and abandonment is a drilling cost." Nicolaou Depo. at 142. The Supplemental Report simply concludes that, because plugging and abandonment costs are drilling costs, PDC is responsible for paying those costs.

25. "An opinion is not objectionable just because it embraces an ultimate issue." FED. R. EVID. 704. Testifying that Debtors filed the Chapter 11 petitions in bad faith would be an impermissible legal conclusion, similar to testifying about the reasonableness of a party's actions. *See McBroom v. Payne*, 478 Fed. Appx. 196, 200 (5th Cir. 2012) ("whether an officer's use of his firearm was unreasonable for purposes of the Fourth Amendment is a legal conclusion"); *U.S. v. Williams*, 343 F.3d 423, 435 (5th Cir. 2003).

26. However, here, the Supplemental Report does not make any legal conclusions, such as whether Debtors acted in bad faith. Instead, the Supplemental Report simply applies Nicolaou's own reasoning to the fact that plugging and abandonment costs are drilling costs and concludes that, based on Nicolaou's own testimony, PDC "is responsible for adding capital to the

Partnerships if funds are required to plug and abandon the wells, which would be considered a drilling cost." Motion, Exhibit C. Just because the Supplemental Report concerns the "ultimate issue" of how plugging and abandonment costs are labelled and PDC's responsibilities to fund those costs does not mean that the report's opinions are impermissible. *See* FED. R. EVID. 704.

CONCLUSION

27. For all of the foregoing reasons, the LP Plaintiffs respectfully request that the Debtors' *Expedited Motion to Exclude Expert Reports and Testimony of Gregory E. Scheig* be denied in its entirety.

Respectfully submitted,

/s/ Thomas G. Foley
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Counsel for the LP Plaintiffs as defined herein

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Objection to Debtors' Motion to Exclude Expert Reports and Testimony* was served on the parties receiving notice via the Court's ECF filing system, on the 10th day of June 2019:

/s/ Thomas G. Foley
Thomas G. Foley

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	)	
	)	CASE NO. 18-33513
ROCKIES REGION 2006	)	CHAPTER 11
LIMITED PARTNERSHIP and	)	
ROCKIES REGION 2007	)	
LIMITED PARTNERSHIP	)	(Jointly Administered)
	)	
DEBTORS	)	

ORAL DEPOSITION OF

KAREN NICOLAOU

MAY 7, 2019

ORAL DEPOSITION OF KAREN NICOLAOU, produced as a witness at the instance of The Dufresne Family Trust, The Schulein Family Trust, The Michael A. Gaffey and Joanne M. Gaffey Living Trust, March 2000, and The Glickman Family Trust dated August 29, 1994, The William J. and Judith A. McDonald Living Trust dated April 16, 1991, and duly sworn, was taken in the above-styled and -numbered cause on May 7, 2019, from 9:07 a.m. to 6:04 p.m., before Mercedes Arellano, CSR in and for the State of Texas, reported by machine shorthand, at the law offices of Gray, Reed & McGraw, LLP, 1601 Elm Street Suite 4600, Dallas, Texas, pursuant to the Federal Rules of Civil Procedure.

Exhibit A

A. Could you repeat that, please.

Q. Yeah.

Did you have any conversations at Gray Reed related to the cost or obligation of the partnerships to pay plugging costs?

A. Yes.

Q. The plugging liabilities -- the future liabilities was one of the principal reasons for filing the bankruptcy case, was it not?

A. Yes.

Q. And did you determine that these costs are obligations of the partnerships?

A. Yes.

Q. And how did you go about making that determination?

A. I'm sorry?

Q. How did you go about making that determination?

A. In consultation with Darwin Stump at PDC and my attorneys, and just review of -- I don't want to put -- what's available on the web in terms of regulations, et cetera.

Q. Uh-huh. Would you refer back to the partnership agreement, maybe the 2007 one?

A. 2007, Exhibit 4?

Q. I think that's right.

A. It's right here, Exhibit 4.

Q. Yeah, perfect.

Would you make reference to Section 2.01 of the partnership agreement?

MR. BROOKNER: Mark, I'm sorry. Which section?

MR. WEISBART: 2.01.

Q. (BY MR. WEISBART) All right. Would you look at (b) under Section 2.01(b), and I'll read it.

It says, "The managing general partner shall pay all lease and tangible drilling costs as well as all intangible drilling costs in excess of such cost paid by the investor partners with respect to the partnership. To the extent that such costs are greater than the managing general partners capital contribution set forth in the previous subsection, the managing general partner shall make such additional contributions in cash to the partnership equal to such additional costs."

Do you see that?

A. Yes.

Q. Okay. So isn't it true, based on this paragraph, that PDC is the managing general partner and has to pay plugging costs to plug and abandon the partnership wells?

MR. ORMISTON: Objection, form, to the extent it calls for a legal conclusion. This paragraph does not mention the words "plug and abandonment costs."

Q. (BY MR. WEISBART) You can answer the question as a layperson.

A. To the extent that a plugging and abandonment is a drilling cost.

Q. Okay. Well, let's go to the definitional section and look at Section 1.08(n).

This is the definition of drilling completion cost, is it not?

A. Yes.

Q. Okay. I'll go ahead and read it. "Drilling and completion costs shall mean all costs excludeing operating costs of drilling, completing, testing equipment, and bringing a well into production or plugging and abandoning it, including all labor and other construction and installation costs incident thereto."

Do you see that?

MR. ORMISTON: That was not the full definition. And that phrase is not used in Section 2.01 that you just referred to.

Q. (BY MR. WEISBART) Do you see that, ma'am?

A. You lost me.

Q. All right. I'll read it again. "Drilling and completion costs shall mean all costs excluding operating costs of drilling, completing, testing, equipping, and bringing a well into production or plugging and abandoning it."

And it goes on. And I won't read the whole paragraph, but do you see that?

A. I see that.

Q. Okay.

MR. ORMISTON: Are you saying that -- well --

MR. WEISBART: I'm asking questions, sir.

MR. ORMISTON: All you're asking her is if she sees it.

MR. WEISBART: Okay. I have another question.

MR. ORMISTON: Okay.

Q. (BY MR. WEISBART) Based on these two sections, would it be your opinion that PDC, as managing general partner, had to pay the cost to plug and abandon the partnership wells?

MR. ORMISTON: Objection, form, to the extent it calls for a legal conclusion.

You can give him your understanding if you have one.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	)	
	)	CASE NO. 18-33513
ROCKIES REGION 2006	)	CHAPTER 11
LIMITED PARTNERSHIP and	)	
ROCKIES REGION 2007	)	
LIMITED PARTNERSHIP	)	(Jointly Administered)
	)	
DEBTORS	)	

REPORTER'S CERTIFICATION
DEPOSITION OF KAREN NICOLAOU
MAY 7, 2019

I, Mercedes Arellano, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, KAREN NICOLAOU, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That examination and signature of the witness to the deposition transcript was waived by the witness and agreement of the parties at the time of the deposition;

That the original deposition was delivered to Mr. Mark A. Weisbart;

That the amount of time used by each party at the deposition is as follows:

Exhibit A

Mr. Mark Weisbart 06 HOURS:08 MINUTES

That $_____ is the deposition officer's charges to the Party for preparing the original deposition transcript and any copies of exhibits;

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes all parties of record:

Mr. Mark A. Weisbart, Mr. James S. Brouner, and Mr. Thomas G. Foley, Attorneys for The Dufresne Family Trust, The Schulein Family Trust, The Michael A. Gaffey and Joanne M. Gaffey Living Trust, March 2000, and The Glickman Family Trust dated August 29, 1994, The William J. and Judith A. McDonald Living Trust dated April 16, 1991

Mr. James Ormiston and Mr. Jason Brookner, Attorneys for Debtors

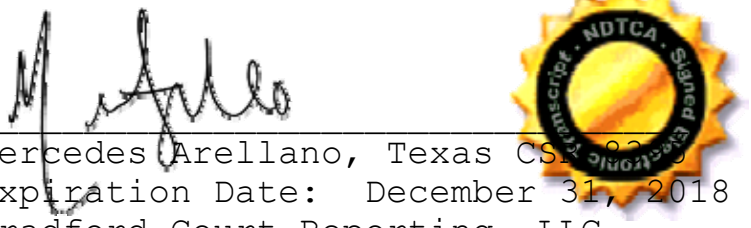
Mr. Michael D. Morfey, Ms. Robin Russell, and Mr. Charles E. Elder, Attorneys for PDC Energy

That a copy of this certificate was served on all parties shown herein on _____ and filed with the Clerk pursuant to Rule 203.3.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Exhibit A

Certified to by me this ___ day of May, 2019.



Mercedes Arellano, Texas CSR [illegible]
Expiration Date: December 31, 2018
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Exhibit A