

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED RICE LITIGATION))))))	4:06 MD 1811 CDP ALL CASES
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**JOINT REPORT OF LEAD COUNSEL
FOR MARCH 11, 2010 TELEPHONIC STATUS CONFERENCE**

Don M. Downing and Adam J. Levitt, Lead Counsel for Plaintiffs, and Terry Lueckenhoff, Lead Counsel for Defendants, hereby report to the court that they believe the following matters will be taken up at the March 11, 2010 Telephonic Status Conference:

1. Proposed Order Regarding Dispositive/Daubert Motions in First Group of Cases to Be Remanded (Exhibit A). (Downing)
2. Proposed Order Regarding Pre-Trial Deadlines for the Fifth Bellwether Trial (Texas Producer Plaintiffs (Exhibit B). (Downing)
3. This Court’s Memorandum and Order Denying Defendants’ Motion for Relief from Case Management Order 11. (Lueckenhoff)

Respectfully submitted,

/s/ Don M. Downing
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And

/s/ Adam J. Levitt (w/consent)
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Lead Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Don M. Downing

EXHIBIT

A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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**PROPOSED ORDER REGARDING DISPOSITIVE/DAUBERT MOTIONS
IN FIRST GROUP OF CASES TO BE REMANDED**

The following shall modify the procedures and deadlines set forth in CMO-20 for filing dispositive and *Daubert* motions in the First Group of Cases to be Remanded.

- a. For cases being remanded to the **Eastern District of Arkansas**, the parties should carefully review the Court's December 9, 2009, Memorandum and Order, which ruled on dispositive and *Daubert* motions filed in the Second Bellwether Trial (which involved Arkansas and Mississippi Plaintiffs)(D.I. 2075), and focus their briefing on issues not addressed by that ruling. The Court is not precluding the parties from raising issues the Court already addressed in that ruling, but only new or supplemental points on those issues should be included. **The briefing scheduling** for dispositive *Daubert* motions in these cases **shall remain the same as set forth in CMO-20 (June 11, 2010** for the motions, **July 1, 2010** for briefs in opposition and **July 11, 2010** for reply briefs.)
- b. For cases to be remanded to the **Western District of Louisiana**, any motions for summary judgment or motions to exclude or limit testimony under *Daubert* or for any other reason must be filed **no later than 30 days after the date the Court issues its rulings on such motions filed in the Fourth Bellwether trial**, which

involves Louisiana Producer Plaintiffs. Given that the trial date for that trial is June 21, 2010, the Court anticipates that it will rule on *Daubert* and dispositive motions before that date. Briefs in opposition must be filed **no later than three weeks after the due date for the motions**, and replies must be filed **no later than two weeks thereafter**. The parties are likewise encouraged to review carefully the Court's rulings in the Fourth Bellwether Trial and avoid repetitive arguments that are addressed in the Court's rulings.

- c. For cases being remanded to the **Southern District of Texas**, any motions for summary judgment or motions to exclude or limit testimony under *Daubert* or for any other reason must be filed **no later than 30 days after the date the Court issues its rulings on such motions in the Fifth Bellwether Trial**, which involves Texas Producer Plaintiffs. Those motions should be ruled upon by the end of September, 2010 as the trial is tentatively scheduled to begin in October 2010. Briefs in opposition must be filed **no later than three weeks after the due date for the motions**, and replies must be filed **no later than two weeks thereafter**. The parties are likewise encouraged to review carefully the Court's rulings in the Fifth Bellwether Trial and avoid repetitive arguments that are addressed in the Court's ruling.

Respectfully submitted,

GRAY, RITTER & GRAHAM, P.C.

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Plaintiffs' Executive Committee

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this 4th day of March, 2010, electronically filed a copy of the foregoing with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/ Don M. Downing

EXHIBIT

B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
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IN RE GENETICALLY MODIFIED
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**PROPOSED ORDER REGARDING PRE-TRIAL DEADLINES FOR THE
FIFTH BELLWEATHER TRIAL (TEXAS PRODUCER PLAINTIFFS)**

The following shall modify the procedures and deadlines as set forth in CMO-20 for the Fifth Bellwether Trial (Texas Producer Plaintiffs).

- a. The plaintiffs in the Fifth Bellwether Trial are Lee Hafernick and related entities and James and Carol Gentz and related entities.
- b. Any motions to dismiss; for summary judgment, motions for judgment on the pleadings, or *Daubert* motions or other motions to exclude or limit expert testimony must be filed no later than **July 30, 2010**. Opposition briefs shall be filed no later than **August 20, 2010** and any reply brief shall be filed no later than **September 3, 2010**.
- c. Initial pre-trial submissions must be filed no later than **September 15, 2010**, the second part of the submissions must be filed no later than **September 24, 2010**, and a final pre-trial conference will be held on **Thursday, September 30, 2010 at 10:00 am**. Pre-trial submissions will follow the form set out in docket #1325, except that motions in limine must be filed with the first part of the submissions.

Respectfully submitted,

GRAY, RITTER & GRAHAM, P.C.

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/s/ Don M. Downing