IN THE CIRCUIT COURT OF WETZEL COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

MARKWEST LIBERTY MIDSTREAM & RESOURCES, L.L.C.,
Plaintiff,

v.

CIVIL ACTION NO. 16-C-82
JUDGE H. CHARLES CARL, III

J.F. ALLEN COMPANY;
AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC.;
REDSTONE INTERNATIONAL, INC.;
CIVIL & ENVIRONMENTAL CONSULTANTS, INC.; and
COASTAL DRILLING EAST, LLC,
Defendants,

v.

THE LANE CONSTRUCTION CORPORATION,
Additional Defendant.

ORDER REGARDING PRETRIAL AND TRIAL LOCATION

This matter came before the Court upon a review of the file. On March 27, 2020, during a telephonic conference, the Court and counsel discussed conducting the bench trial in either Hampshire County or Monongalia County. The Court has inquired into the availability of a courtroom in Morgantown (Monongalia County) for the June trial dates. However, due to the COVID-19 public health crisis and resulting Judicial Emergency, it is anticipated that all courtrooms at the Monongalia County Judicial Center will be needed for hearings or trials in June. Therefore, Monongalia County is not an available location to conduct this bench trial. The Court has inquired as to the availability of the courtroom in the Hampshire County Judicial Center, and it is available for the June trial dates.

The Court finds that conducting a bench trial in a county other than the county in which the case originated is permissible, as long as all parties and counsel agree. The Court inquired of counsel as to conducting the bench trial in Hampshire County and all counsel consented, via emails sent to the Court on April 21, 2020, to this location for the bench trial. Mr. Colosimo, counsel for Plaintiff MarkWest, indicated that he intends to request, at the upcoming pretrial conference, that the bench trial begin on Tuesday, June 9, 2020, to better accommodate travel for the parties, witnesses, and counsel.

With regard to the pretrial hearing scheduled for May 8, 2020, the *Administrative Order Re: Judicial Emergency Declared, Second Amended Order* entered by the Supreme Court of Appeals of West Virginia on April 22, 2020, extended the previously imposed Judicial Emergency period through May 15, 2020. The *Administrative Order* allows circuit courts to conduct "hearings, proceedings, or bench trials via telephone or video conference in non-emergency matters" so long as all parties are in agreement. The Court inquired of counsel as to conducting the May 8, 2020, pretrial hearing via Leader Phone, and all counsel consented, as memorialized by emails sent to the Court on April 23, 2020, and April 27, 2020.

WHEREFORE, the Court does hereby **ADJUDGE** and **ORDER** that the bench trial shall be conducted in Hampshire County, West Virginia. The Court will consider the beginning date for the bench trial at the pretrial hearing. It is further **ORDERED** that the pretrial hearing on May 8, 2020, at 9:00 a.m. shall be conducted via Leader Phone: 877-278-2734 and the pin number is 333017.

It is further **ORDERED**:

❖ The Circuit Clerk shall transmit this Order to all counsel of record as well as to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

Entered this 30th day of April, 2020.

HONORABLE H. CHARLES CARL, III

I HEREBY CERTIFY THAT THE ANNEXED INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.
ATTEST: _____ CIRCUIT CLERK
WETZEL CO. WEST VIRGINIA
BY: _____ DEPUTY CLERK

CIRCUIT COURT WETZEL COUNTY WEST VIRGINIA