



**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA**

**IN RE:            GAVIN LANDFILL LITIGATION            Civil Action No. 16-C-8000**

**THIS DOCUMENT RELATES TO ALL CASES**

**DEFENDANTS' AND THIRD-PARTY DEFENDANTS' JOINT MOTION AND  
MEMORANDUM OF LAW IN SUPPORT OF PROPOSED RULE 502(D) ORDER**

Defendants American Electric Power Company, Inc., American Electric Power Service Corporation, Ohio Power Company, and Doug Workman (collectively, "Defendants"), and Third-Party Defendants Headwaters Incorporated and Mid-State (together, "Third-Party Defendants"), pursuant to W. Va. R. Evid. 502(d), respectfully request entry of their proposed Rule 502(d) Order [Exhibit A] based upon a Model Draft of a Rule 502(d) Order published in the Fordham Law Review. [See Exhibit B, 81 Fordham L. Rev. 1586 (2013)]. Plaintiffs do not consent to this motion.

A Rule 502(d) order is important in this case to protect against the inadvertent disclosure of privileged communications and confidential work product, particularly where the parties anticipate the production of a large volume of documents and communications. There is good cause for such an order, which will protect the interests of Defendants and Third-Party Defendants and will not prejudice Plaintiffs.

For these reasons, Defendants and Third-Party Defendants respectfully request that the Panel enter the proposed Rule 502(d) order submitted by Defendants and Third-Party Defendants.

**Denied** Judge Derek C Swope Aug 29, 2016

Respectfully submitted,

**DEFENDANTS, AMERICAN ELECTRIC  
POWER COMPANY, INC., AMERICAN  
ELECTRIC POWER SERVICE  
CORPORATION, OHIO POWER COMPANY,  
and DOUG WORKMAN**

By Counsel:

/s/ James W. Turner

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**VFL TECHNOLOGY CORPORATION,  
HEADWATERS RESOURCES, INC.,  
improperly identified as HEADWATERS  
INCORPORATED**

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**MID-STATE, INC.**

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**CERTIFICATE OF SERVICE**

I do hereby certify that on August 22, 2016, I served the foregoing **DEFENDANTS’ AND THIRD-PARTY DEFENDANTS’ JOINT MOTION AND MEMORANDUM OF LAW IN SUPPORT OF PROPOSED RULE 502(D) ORDER** upon Plaintiffs’ counsel through the electronic filing system applicable to this case as follows:

L. David Duffield Chad S. Lovejoy David Nichols Duffield, Lovejoy, Stemple & Boggs, PLLC P.O. Box 608 Huntington, WV 25710-0608 <i>Counsel for Plaintiffs</i>	Christopher J. Regan Scott S. Blass J. Zachary Zatezalo Laura P. Pollard Bordas & Bordas, PLLC 1358 National Road Wheeling, WV 26003 <i>Counsel for Plaintiffs</i>
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/s/ James W. Turner  
James W. Turner  
(WV Bar #5172)

This document constitutes a ruling of the court and should be treated as such.

**Court:** WV Raleigh County Circuit Court

**Judge:** Derek C Swope

**File & Serve**

**Transaction ID:** 59455448

**Current Date:** Aug 30, 2016

**Case Number:** MC 16-C-8000

**Case Name:** Gavin Landfill Litigation 16-C-8000 Master Case

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/s/ **Judge Derek C Swope**