

WESTERN RESOURCE ADVOCATES

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*Attorneys for Petitioner,
Living Rivers*

BEFORE THE UTAH WATER QUALITY BOARD

In the Matter of

**PR Spring Tar Sands Project, Ground
Water Discharge Permit-by-Rule**

No. WQ PR-11-001

STIPULATED SCHEDULE

January 5, 2012

Pursuant to Utah Administrative Code R305-6-207, Living Rivers, the Executive Secretary of the Utah Water Quality Board ("Executive Secretary"), and U.S. Oil Sands, Inc. ("USOS") (f/k/a Earth Energy Resources, Inc.), by and through their counsel of record, hereby stipulate to the following schedule for this matter:

1. Pursuant to Rule 305-6-209, the parties may conduct informal discovery until January 3, 2012. Informal discovery "by agreement is preferred. All parties shall have access to information contained in the agency's records unless the records are not required to be disclosed under the Government Records Access and Management Act, title 63G, chapter 2, as modified by Section 19-1-306 of the Utah Environmental Quality Code." Utah Admin. Code R305-6-209(1). Each party may consider and agree to provide additional information by way of informal discovery on a case-by-case basis.

2. On or before December 21, 2011, the parties shall propose to each other documents to add to, or delete from, the initial record pursuant to Rule 305-6-208(3).
3. On or before January 16, 2012, any party may file a motion for formal discovery pursuant to Rule 305-6-209(2).
4. On or before January 10, 2012, the Executive Secretary shall file the initial record together with the index in accordance with Rule 305-6-208.
5. On or before January 10, 2012, Living Rivers may depose Mark Novak of the Division of Water Quality for no more than a half day. The scope of the deposition is subject to a determination by the ALJ. If the ALJ has not resolved the dispute among the parties concerning the scope of this matter before January 10, 2012, the deposition shall occur on January 10, 2012, and the Executive Secretary and USOS shall reserve their objections to the scope of the deposition.
6. On or before January 17, 2012, any objections to the initial record shall be filed pursuant to Rule 305-6-208(3).
7. On or before January 31, 2012, the Executive Secretary shall respond to any objections to the initial record pursuant to Rule 305-6-208(3).
8. On or before January 20, 2012, Living Rivers shall file pre-filed testimony from each of their witnesses pursuant to Rule 305-6-212(5). With respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, such witness' pre-filed testimony must include the subject matter of such witness' expected direct testimony; the substance of the facts and opinions to which such witness is expected to testify; all of the data on which such witness will rely for his or her testimony; an identification of the qualifications of such witness; a list of such witness' publications within the last ten (10) years; and a list of the cases in which such

witness has testified as an expert in the last four (4) years. Each expert must provide copies of his or her publications, previous expert reports, and previous written testimony, to the extent it is germane to one or more of the issues to be determined at the hearing and it is reasonably available to the expert, within five (5) days of a request for such publications, reports, or testimony. Direct testimony of a Living Rivers' witness that is not properly disclosed in pre-filed testimony that complies with this paragraph shall be excluded from consideration. Pre-filed testimony that complies with this paragraph and Rule 305-6-213(3) shall be admissible at the hearing in accordance with Rule 305-6-213(3)(c).

9. On or before February 29, 2012, USOS shall submit to the Executive Secretary's and Living Rivers' counsel a report from each of its witnesses who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony (signed by the witness), which must include the subject matter of the such witness' expected direct testimony; the substance of the facts and opinions to which such witness is expected to testify; all of the data on which such witness will rely for his or her testimony; an identification of the qualifications of such witness; a list of such witness' publications within the last ten (10) years; and a list of the cases in which such witness has testified as an expert in the last four (4) years. Each expert must provide copies of his or her publications, previous expert reports, and previous written testimony, to the extent it is germane to one or more of the issues to be determined at the hearing and it is reasonably available to the expert, within five (5) days of a request for such publications, reports, or testimony. USOS will present the testimony of its witnesses live during the hearing, so USOS will not move to admit expert reports into evidence, but USOS may use them to refresh recollections. Direct testimony of a USOS expert (other than direct testimony offered in response to testimony disclosed after

the expert's report), which is not properly disclosed in a report that complies with this paragraph shall be excluded from consideration.

10. On or before February 29, 2012, the Executive Secretary shall file pre-filed testimony from each of its witnesses pursuant to Rule 305-6-212(5). If the Executive Secretary hires or retains an expert to testify, such pre-filed testimony shall comply with the requirements set forth in paragraph 9. Direct testimony of the Executive Secretary's witnesses that is not properly disclosed in pre-filed testimony that complies with this paragraph shall be excluded from consideration. Such witnesses shall be permitted to respond at the hearing to testimony disclosed after their pre-filed testimony. Pre-filed testimony that complies with this paragraph and Rule 305-6-213(3) shall be admissible at the hearing in accordance with Rule 305-6-213(3)(c).

11. On or before March 16, 2012, Living Rivers shall file pre-filed rebuttal testimony from each of their witnesses pursuant to Rule 305-6-212(5). Pre-filed rebuttal testimony from experts must meet the requirements of paragraph 9 in this Scheduling Order. Living Rivers' pre-filed rebuttal testimony must include all of the data on which the expert will rely for his or her rebuttal testimony. Rebuttal testimony that is not properly disclosed as set forth herein shall be excluded from consideration, except that Living Rivers' witnesses may respond to testimony disclosed by either USOS's witnesses or the Executive Secretary's witnesses for the first time during the hearing. Pre-filed rebuttal testimony that complies with this Stipulated Schedule and Rule 305-6-213(3) shall be admissible at the hearing in accordance with Rule 305-6-213(3)(c).

12. On or before March 30, 2012, the parties shall file any motions to exclude issues from presentation at the evidentiary hearing.

13. On April 23, 2012, the briefing of any dispositive motions must be completed and submitted for ruling.

14. On or before April 27, 2012 at 5:00 p.m., the parties shall file a Joint Pre-Hearing Statement, which shall include:

a. Admissions of Fact. A list of all relevant facts that have been stipulated and admitted and require no additional proof;

b. Contested Issues of Fact. A list of all relevant factual issues in controversy that are necessary to the final disposition of this matter;

c. Agreed Applicable Propositions of Law. A list by sub-paragraph of the legal positions of the respective parties that are not in dispute; and

d. Contested Issues of Law. A statement of the issues of law in dispute, with a memorandum of authorities supporting each issue.

15. On May 16 and 17, 2012, a two-day evidentiary hearing will be held pursuant to Rule 305-6-213. Each day, the hearings will begin at 10:00 a.m. and end by 5:00 p.m.

16. On April 23, 2012, the parties will exchange their respective exhibits (including demonstrative exhibits) and witness lists pursuant to Rule 305-6-212(1).

17. On or before May 3, 2012, the parties shall have met and conferred regarding the exhibits, and the exhibits that the parties agree are admissible will be filed prior to the evidentiary hearing pursuant to Rule 305-6-212(2).

18. On May 4, 2012, beginning at 10:00 a.m., a final pre-hearing conference will be held for the purposes of oral argument on any motions to exclude or other matters.

19. Pursuant to Rule 305-6-212(3), each party may submit a pre-hearing brief and/or motions related to the way the hearing will be conducted or the admissibility of exhibits and other evidence at least ten business days before the hearing.

20. Pursuant to Rule 305-6-214, the parties may submit post-hearing briefs and proposed findings of fact and conclusions of law no later than 13 business days after the hearing.

21. Except as otherwise set forth herein, the deadlines and timeframes set forth in Utah Administrative Code R305-6 shall apply to this matter.

22. Any of these deadlines and timeframes, other than the dates set forth in paragraphs 15, and 18, may be adjusted by either stipulation of all parties or an order by the ALJ.

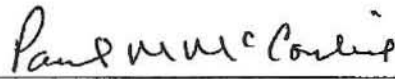
DATED this 5th day of January, 2012.

STIPULATED AND AGREED:

WESTERN RESOURCE ADVOCATES


UTAH ATTORNEY GENERAL'S OFFICE

Joro Walker
Rob Dubuc
Attorneys for Living Rivers



Paul M. McConkie
Attorneys for the Executive Secretary of
the Water Quality Board

HOLLAND & HART LLP



A. John Davis III
Christopher R. Hogle
M. Benjamin Machlis
Attorneys for U.S. Oil Sands, Inc.

SO ORDERED:

Sandra K. Allen
Administrative Law Judge

21. Except as otherwise set forth herein, the deadlines and timeframes set forth in Utah Administrative Code R305-6 shall apply to this matter.

22. Any of these deadlines and timeframes, other than the dates set forth in paragraphs 15, and 18, may be adjusted by either stipulation of all parties or an order by the ALJ.

DATED this 5th day of January, 2012.

STIPULATED AND AGREED:

WESTERN RESOURCE ADVOCATES

UTAH ATTORNEY GENERAL'S OFFICE



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A. John Davis III
Christopher R. Hogle
M. Benjamin Machlis
Attorneys for U.S. Oil Sands, Inc.

SO ORDERED:

Sandra K. Allen
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 5th day of January, 2012, a true and correct copy of the foregoing **STIPULATED SCHEDULE** was served via e-mail, as follows:

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