M1047/0090
cc: Leslie

FILED

JAN 30 2013

SECRETARY, BOARD OF
OIL, GAS & MINING

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BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

LIVING RIVERS, a non-profit association,

Petitioner,

v.

DIVISION OF OIL, GAS AND MINING,

Respondent,

EARTH ENERGY RESOURCES, INC.

Intervenor/Respondent

DIVISION'S OBJECTIONS TO PROPOSED FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER

Docket No.

Cause No. M/047/0090

Come Now the Utah Division of Oil, Gas and Mining (Division) and makes the following Objections to the proposed Findings of Fact, Conclusions of Law and Order.

Paragraph 10. Change the first sentence to say: "The hearing of this matter commenced on February 23, 2011 and testimony was presented by the Division and Living Rivers, however, there was not sufficient time to complete hearing of the case and so the hearing was continued."

Paragraph 11. The date should be September 19, 2012

Paragraph 16. In lieu of "would be allowed" substitute "chose".

Paragraph 23. This finding goes beyond the minute entry. The Board acknowledged that the DWQ Board made such a finding and it agreed that the definition it used was not unreasonable and that to the extent the Division relied on it to make its evaluation and that such use was not error. The finding should be redrafted to comply with the minute entry.

Paragraph 40 and 41. These findings are argument regarding the testimony in the DWQ hearing. I think the findings should say that the Board finds no support in the testimony presented at the DWQ hearing including . . . .[the testimony referenced in 40 and 41] . . . and that the testimony supports its finding that small amounts of ground water near seeps will not be impacted by the mining operations (finding 40); and that residual bitumen and limonine will not impact ground water (41).

Submitted this 30th day of January, 2013

Steve Alder,
Assistant Utah Attorney General
Counsel for Division of Oil, Gas and Mining

#277092 v1 slc

CERTIFICATE OF MAILING

The Undersigned affirms that he did mail and email a true and correct copy of the forgoing Objections to findings of Fact and Conclusions of Law to the following persons and addresses on this 30 day of January, 2013.

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