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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

WALTER L. TAMOSAITIS, Ph.D., an	)	
individual,	)	NO. CV-11-5157-LRS
	)	
Plaintiff,	)	SCHEDULING ORDER
	)	
-vs-	)	
	)	
URS ENERGY & CONSTRUCTION, INC.,	)	
an Ohio Corporation,	)	
	)	
Defendant.	)	
	)	

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A telephonic status conference was held in the above-entitled matter on April 21, 2015. John P. Sheridan participated on behalf of Plaintiff; Timothy M. Lawlor and Matthew W. Daley participated on behalf of Defendant. The Court having reviewed the documents in the file and discussed the adoption of a scheduling order with counsel, now enters the following Scheduling Order:

**IT IS ORDERED:**

1. Pursuant to Rule 16 of the Federal Rules of Civil Procedure, this schedule "shall not be modified except upon a showing of good cause and by leave [of the Court]." Rule 16(f) of the Federal Rules of Civil Procedure provides for sanctions for failure to obey the Scheduling

1 Order.

2 2. Pursuant to Rule 26(a)(1) of the Federal Rules of Civil  
3 Procedure, the parties shall disclose the following:

4 (a) A list of all individuals, including addresses and phone  
5 numbers if known, who are likely to have discoverable information  
6 relevant to any issue in the case;

7 (b) A copy or description of all documents and tangible things  
8 that may be relevant to any issue in the case;

9 (c) A computation of any damages claimed by any party; and

10 (d) A description of any insurance agreement that must be made  
11 available for inspection and/or copying.

12 These disclosures shall be made, BUT NOT FILED, on or before **June 8,**  
13 **2015.**

14 3. A motion to amend pleadings or add named parties shall be filed  
15 and served no later than **December 15, 2015.**

16 4. The parties are reminded to follow all Federal and Local Rules,  
17 in particular LR 7.1, which governs motion practice. **The Court may**  
18 **choose to disregard any materials not timely filed and motions not noted**  
19 **for hearing in compliance with the rules.**

20 Local Rule 7.1(f) will be strictly enforced. Motions for leave  
21 to file an overlength brief must be filed and ruled on prior to the  
22 filing of the overlength brief. Overlength briefs will be allowed only  
23 when good cause is shown.

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1           5. Pursuant to Rule 26(a)(2) of the Federal Rules of Civil  
2 Procedure, the Plaintiff shall provide all disclosures regarding experts  
3 to the Defendant no later than **November 25, 2015**. Defendant shall  
4 provide all Rule 26(a)(2) disclosures to the Plaintiff no later than  
5 **January 4, 2016**. The parties shall identify any rebuttal experts and  
6 provide the Rule 26(a)(2) reports of those experts no later than **February**  
7 **1, 2016**. Challenges to expert qualifications and the admissibility of  
8 expert testimony shall be disclosed to the Court no later than **March 8,**  
9 **2016**.

11           6. All discovery shall be completed on or before **February 23, 2016**.  
12 THE PARTIES SHALL FILE NO DISCOVERY EXCEPT THOSE PORTIONS NECESSARY TO  
13 SUPPORT MOTIONS. All written discovery shall be served no later than  
14 forty days (40) prior to the discovery cut-off date. Pursuant to LR  
15 37.1(e), where there are circumstances necessitating and allowing for an  
16 immediate ruling on a discovery question which is not excessively complex  
17 or broad, the parties may obtain such a ruling by contacting the Court's  
18 courtroom deputy and arranging for a telephone conference with the Court.  
19 The Court retains the discretion to require the filing of a formal  
20 written motion and a determination of the same pursuant to the  
21 requirements of LR 7.1.

23           7. All dispositive motions shall be filed and served on or before  
24 **March 8, 2016**. This deadline may only be altered by order of the Court,  
25 for good cause shown.

26           (a) The motion must strictly comply with all requirements of

1 Local Rule 7.1 and 56.1.

2 (b) Counsel should make evidentiary objections as discussed  
3 in Local Rule 56.1(b) and (c) within the parties' statement of facts as  
4 opposed to filing a separate motion to strike.

5 (c) All materials filed in support of, or in opposition to,  
6 a motion for summary judgment must strictly comply with the requirements  
7 of Rule 56(e) of the Federal Rules of Civil Procedure. See *Orr v. Bank*  
8 *of America*, 285 F.3d 764 (9th Cir. 2002).

9 (d) **The Court's copies of any exhibits submitted in support**  
10 **of, or in opposition to, a dispositive motion shall be bound and tabbed.**

11 (e) Failure to comply with the above requirements may result  
12 in the Court disregarding any non-complying filings.

13 8. A telephonic status conference shall be set for **April 19, 2016,**  
14 at **9:00 a.m.** The parties shall call the Court's public conference line  
15 at **877-336-1828; Access Code: 3470056; Security Code: 5157** at the time  
16 scheduled for the conference. The parties must call the Court's  
17 courtroom deputy to arrange for any motions to be heard during this  
18 telephonic status conference. Motions may not be noted for hearing  
19 during the telephonic status conference without approval of the courtroom  
20 deputy.

21 9. Exhibits, Witness Lists, and Deposition Testimony.

22 (a) In accordance with Fed. R. Civ. Pro. 26(a)(3), exhibit and  
23 witness lists shall be filed and served to the opposing party, and

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1 exhibits made available for inspection (or copies provided), on or before  
2 **May 2, 2016.**

3 (b) All exhibits shall be premarked: Plaintiff's exhibits  
4 shall be numbered 1 through 100; Defendant shall use numbers 101 through  
5 200.

6 (c) The parties shall also serve, but not file at this time,  
7 a list of those witnesses whose testimony may be by deposition, along  
8 with a purged transcript of deposition testimony (see, LR 32.1).

9 (d) Any objection to use of a deposition or an exhibit  
10 proposed by an opponent shall be filed and served by **May 16, 2016**, and  
11 shall be heard at the pretrial conference. A failure to object will be  
12 considered a waiver, and all items listed and not objected to will be  
13 considered admitted.

14 (e) On **May 16, 2016**, the parties shall also submit a bound and  
15 tabbed bench copy of their exhibits for the Court's reference at the  
16 pretrial conference and during trial.

17 (f) In accordance with Local Rule 83.1(g), each party shall  
18 bring to trial and any other hearing on the merits, photocopies of their  
19 relevant pre-marked exhibits for the Court record, opposing counsel, and  
20 testifying witness, unless it is not possible to do so because of the  
21 nature of an exhibit. These copies shall be organized in separate  
22 binders, tabbed, and premarked in accordance with the exhibit marking  
23 scheme described above.

24 10. A joint Pretrial Order, prepared in accordance with the format  
25  
26

1 provided in Local Rule 16.1(b), shall be filed on or before **June 16,**  
2 **2016.** It shall also be emailed to [sukoorders@waed.uscourts.gov](mailto:sukoorders@waed.uscourts.gov). The  
3 list of exhibits contained in the joint Pretrial Order shall reflect the  
4 exhibit marking scheme described above. In preparing the joint Pretrial  
5 Order, the parties shall confer regarding duplicate exhibits and  
6 determine which party will submit such exhibits for trial.

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8 11. Trial briefs, requested voir dire, and proposed jury  
9 instructions shall also be filed and served on or before **June 16, 2016.**  
10 Proposed jury instructions shall also be emailed to  
11 [sukoorders@waed.uscourts.gov](mailto:sukoorders@waed.uscourts.gov).

12 The parties shall confer regarding jury instructions and file  
13 a set of **JOINT PROPOSED JURY INSTRUCTIONS**. Jury instructions should only  
14 address issues that are unique to this case, and shall include  
15 instructions regarding the elements of each claim or defense, the relief  
16 requested, and a proposed verdict form. See LR 51.1.

17 The Joint Proposed Jury Instructions shall include the  
18 following:

- 19 a. The instructions on which the parties agree; and  
20  
21 b. Copies of disputed instructions (i.e., a copy of each  
22 party's proposed version of an instruction upon which the parties do not  
23 agree). All jury instructions from the most current edition of the Ninth  
24 Circuit Manual of Model Jury Instructions may be proposed by number. The  
25 submission of the Joint Proposed Jury Instructions will satisfy the  
26 requirements of LR 51.1(c).

1           The parties shall address in their trial briefs any objections  
2 they have to instructions proposed by any other party. The parties shall  
3 identify the specific portion of any proposed instruction to which they  
4 object and shall elaborate on the basis for the objection. Objections  
5 asserting that an instruction sets forth an incorrect statement of law  
6 shall describe the legal authority supporting the objection. Failure to  
7 file an objection and supporting argument may be construed as consent to  
8 the adoption of an instruction proposed by another party.

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10           12. All unresolved substantive or evidentiary issues that may  
11 foreseeably arise during trial shall be addressed by MOTIONS IN LIMINE  
12 to be filed and served on or before **June 6, 2016**. Such motions will be  
13 addressed and resolved at the pretrial conference.

14           13. Unless otherwise ordered, a final telephonic pretrial  
15 conference and hearing on motions in limine and evidentiary issues shall  
16 be held on **June 28, 2016**, at **9:00 a.m.** The parties shall call the  
17 Court's public conference line at **877-336-1828; Access Code: 3470056;**  
18 **Security Code: 5157** at the time scheduled for the conference. The  
19 parties should advise the Court one week in advance if they believe that  
20 an in-person pretrial conference would be appropriate.

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22           14. The jury trial shall commence at **9:00 a.m.** on **July 11, 2016**,  
23 in Richland, Washington. The parties estimate a trial length of 12 days.  
24 Counsel shall meet with the Court at **8:30 a.m.** on the day of trial.

25           15. If at any time before trial the parties believe a settlement  
26 conference or mediation session would be helpful, the Court is available

1 to assist in setting up such a proceeding. The parties are herewith  
2 notified that because of the demands on judicial officers of this  
3 district are high, requests for judicial mediation should be made well  
4 in advance of trial. The parties shall report to the Court on or before  
5 **February 23, 2016**, regarding the status of their mediation efforts.

6 The District Court Executive is directed to file this Order and  
7 provide copies to counsel.  
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9 **DATED** this 21st day of April, 2016.

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11 *s/Lonny R. Suko*

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13 LONNY R. SUKO  
14 SENIOR UNITED STATES DISTRICT JUDGE  
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