

STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BOARD OF MINERALS AND ENVIRONMENT

IN THE MATTER OF POWERTECH)	
(USA), INC. APPLICATION FOR)	DENR'S FIRST RESPONSE TO
LARGE SCALE MINING PERMIT)	SABRINA KING'S FIRST SET OF
PERMIT NO. 480)	INTERROGATORIES AND
(Dewey-Burdock Project))	REQUESTS FOR PRODUCTION OF
)	DOCUMENTS
)	

The Minerals and Mining Program ("M&MP"), of the South Dakota Department of Environment and Natural Resources ("DENR"), is the only DENR party to this proceeding. M&MP hereby provides its First Set of Responses to Sabrina King's First Set of Interrogatories and Requests for Production dated July 3, 2013 ("First Set of Interrogatories and Requests for Production"). The M&MP reserves the right to supplement these disclosures for any reason, including, but not limited to (a) ongoing factual discovery including any depositions of witnesses identified by all parties, and (b) ongoing investigation by attorneys and the parties.

PRELIMINARY STATEMENT

Definitions: Words used in the M&MP's Responses herein carry the same meaning as the definitions in the Interrogatories and Requests for Production, except as specifically noted herein.

Federal Agency Acronyms: These responses refer to the Nuclear Regulatory Commission as “NRC,” the United States Geological Survey as “USGS,” and the Environmental Protection Agency as “EPA.”

Relevancy: By making these Responses, the M&MP does not concede that the information sought is relevant to the subject matter of this action or is reasonably calculated to lead to the discovery of admissible evidence.

Preservation of Objections: M&MP’s responses are made without in any way intending to waive, but on the contrary, intending to preserve: (a) the right to raise, in any subsequent proceeding in or the trial of this or any other action, all questions of foundation, relevancy, materiality, privilege, hearsay and evidentiary admissibility of any responses provided herein; (b) the right to object on any ground to the use or introduction into evidence of said responses in any subsequent proceeding in or the trial of this or any other action, on any grounds; and (c) the right to object on any ground at any time to other interrogatories, requests for production, requests for admissions or other discovery involving said responses or the subject matter thereof.

GENERAL OBJECTIONS

1. To the extent the Interrogatories and Requests for Production are intended to elicit information protected by the attorney-client privilege or the work product rule or which contain or reflect the impressions, conclusions, opinions, legal research or theories of the M&MP’s attorneys, the M&MP objects and asserts these privileges to the fullest extent permitted by law.

2. The M&MP objects to each Interrogatory and Request for Production to the extent it seeks to require the M&MP provide information on behalf of any individual or entity other than the M&MP.

3. The M&MP objects to each Interrogatory and Request for Production to the extent that it seeks information with respect to entities or individuals other than the parties involved in this litigation. Such requests are overly broad, unduly burdensome and oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

4. The M&MP objects to each Interrogatory and Request for Production to the extent that it seeks information, the disclosure of which would violate constitutional, statutory, or common law privacy rights of others, contract or confidentiality agreements between the M&MP and third parties, confidential settlement discussions or agreements, or court orders restricting disclosure.

5. The M&MP objects to each Interrogatory and Request for Production to the extent it demands information that is already in the possession of or has been previously produced to, offered for review, inspection and copying by any party during the course of the above entitled proceeding or demands information which is as readily available to any other party to the pending proceeding as the M&MP on the grounds that such a request is unduly burdensome, harassing and cumulative.

6. The M&MP objects to each Interrogatory and Request for Production to the extent that it seeks the disclosure of information or data which is beyond the permissible scope of the South Dakota Rules of Civil Procedure, in that it is

irrelevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

7. The M&MP objects to each Interrogatory and Request for Production to the extent it purports to obligate the M&MP to supplement answers beyond that which is contemplated or mandated by the South Dakota Rules of Civil Procedure.

8. The M&MP objects to each Interrogatory and Request for Production that is so broad, vague, ambiguous, uncertain, and unintelligible that the DENR cannot determine the nature of the answers sought, and to which the DENR is therefore unable to respond.

9. The M&MP has not completed its preparation for hearing. Therefore, the M&MP Responses are given subject to the DENR's right to produce evidence of any subsequently discovered facts.

10. The M&MP objects to each Interrogatory and Request for Production to the extent that it demands information for which the required good cause or substantial need, as dictated by applicable statutes, court rules, and case law, has not been shown.

11. The M&MP objects to Interrogatories and Requests for Production using the term "you" as overly broad, unduly burdensome and oppressive, M&MP does not act or purport to act on behalf of any *Applicant or Petitioner* in this matter and cannot answer Interrogatories and Requests for Production on behalf of any *Applicant or Petitioner*. Notwithstanding this objection, the M&MP will respond to

the Interrogatories and Requests for Production as though they seek information within the custody or control of the M&MP.

12. The M&MP objects to each Interrogatory and Request for Production to the extent it seeks "all" or "every" fact, event or other item on the grounds that the requests using these terms are overly broad, unduly burdensome and oppressive, and are not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, the M&MP will construe these terms to encompass information, the contents of which constitute or can reasonably be determined to refer to the matter requested and which are in the custody or control of the M&MP.

13. The M&MP objects to each Interrogatory and Request for Production to the extent it seeks information from the "DENR", "the State" or "the State of South Dakota" rather than the Minerals and Mining Program of DENR. Requesting that the M&MP search for information from all programs, agencies, departments, subdivisions, and employees of DENR or the state is oppressive and creates an undue burden upon the M&MP. The M&MP will respond to the requests as though they are made to the Minerals and Mining Program of DENR, the only entity with jurisdiction over the review of applications pending before the Board of Minerals and Environment.

14. The M&MP incorporates fully the above stated Preliminary Statement and General Objections into each of the following specific objections and responses, and no specific objection or response shall be construed to waive any of the General Objections.

WRITTEN INTERROGATORIES

1. **Over the life of the project, from the initial contact with Powertech (USA), Inc. through reclamation and mine closing, how much money will the Dewey-Burdock Project cost the DENR.**

Objection, the phrase "over the life of the project" is vague and ambiguous and speculative as the life of the project is not capable of accurate and ready determination. Objection, the interrogatory is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The M&MP does not possess all information covered by the interrogatory. To the extent that other programs or agencies are in possession of the requested information, the information is equally available to all parties and the burden of deriving or ascertaining the answers will be substantially the same for all parties.

Without waiving this objection, the M&MP provides the following information:

The M&MP does not, in the normal course of its business, assign or bill specific costs to a certain project. The M&MP does not know how long the project, including postclosure activities, will last and thus, cannot begin to estimate costs for future activities. Nonetheless, please see the response to Request for Production of Documents 1 for a rough estimate of the current M&MP costs (from 10/1/12 to 7/24/13) related to the Powertech (USA), Inc. Large Scale Mining Permit Application Bates No. 00100.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Preface:

All documents submitted in response to the below requests are being provided in the manner in which they are kept by the M&MP.

Further, the following Requests for Production (as well as the foregoing Written Interrogatories) include broad and voluminous requests. Some of the information produced or described by M&MP is responsive to more than one request. To the extent any material is listed or produced in response to a Request, but is not listed or produced in response to other Requests where it could arguably be listed or produced, any failure to so list or produce such item a second time is unintentional or due to the broad or voluminous nature of the requests. Accordingly, such information should be considered as responsive even if produced in response to other Requests.

REQUEST NO. 1: Please provide a copy of any and all documentation which supports or reflects the substance of each of the answers to the questions posed above.

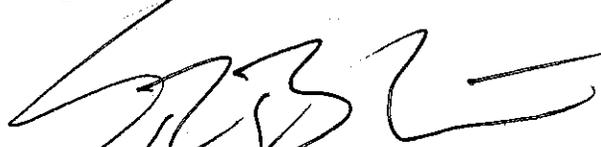
Objection, the phrase "over the life of the project" is vague and ambiguous and speculative as the life of the project is not capable of accurate and ready determination. Objection, the request is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. The M&MP does not possess all information covered by the request. To the extent that other programs or agencies are in possession of the requested information, the information is equally available to all parties and the burden of deriving or ascertaining the answers will be substantially the same for all parties.

Without waiving this objection, the M&MP provides the following information:

See attached documentation providing a rough estimate for M&MP expenditures (from 10/1/12 to 7/24/13) related to the Powertech (USA), Inc. Large Scale Mining Permit Bates No. 00100.

SIGNATURES AS TO OBJECTIONS:

Dated this 2nd day of August, 2013



Steven R. Blair
Richard M. Williams
Assistants Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

Counsel for Minerals and Mining Program, DENR

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the *DENR First Set of Responses to Sabrina King's First Set of Interrogatories and Requests for Production* in the above entitled matter was served upon the following by enclosing the same in envelopes with first class postage prepaid and affixed thereto, and depositing said envelopes in the United States mail, at Pierre, South Dakota, on this 2nd day of August, 2013:

SABRINA KING
917 WOOD AVE
RAPID CITY SD 57701-0947

MAX MAIN
BENNETT, MAIN & GUBBRUD, P.C.
618 STATE STREET
BELLE FOURCHE SD 57717

MIKE CEPAK
MINERALS AND MINING PROGRAM
FOSS BUILDING
523 EAST CAPITOL AVENUE
PIERRE SD 57501

JILLIAN ANAWATY
2804 WILLOW AVE
RAPID CITY SD 57701-7240

JERRI BAKER
705 N RIVER ST
HOT SPRINGS SD 57747-1412

CINDY BRUNSON
11122 FORT IGLOO RD
EDGEMONT SD 57735-7346

BRUCE ELLISON
CLEAN WATER ALLIANCE
PO BOX 2508
RAPID CITY SD 57709-2508

MARY GOULET
338 S 5TH ST
HOT SPRINGS SD 57747-2302

KAREN ELLISON
8265 DARK CANYON RD
RAPID CITY SD 57702-4769

GARDNER GRAY
PO BOX 153
PRINGLE SD 57773-0153

EDWARD F HARVEY
1545 ALBANY AVE
HOT SPRINGS SD 57747-2216

GARY HECKENLAIBLE
PO BOX 422
RAPID CITY SD 57709-0422

SUSAN R HENDERSON
11507 HWY 471
EDGEMONT SD 57735-7322

LILIAS JARDING
PO BOX 591
RAPID CITY SD 57709-0591

MARVIN KAMMERER
22198 ELK VALE RD
RAPID CITY SD 57701-8408

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WILD HORSE SANCTUARY
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RAPID CITY SD 57709-2670

RODNEY KNUDSON
PO BOX 25
HULETT WY 82720-0025

KARLA LARIVE
839 ALMOND ST
HOT SPRINGS SD 57747-1301

REBECCA R LEAS
6509 SEMINOLE LN
RAPID CITY SD 57702-7088

ROBERT LEE
338 S 5TH ST
HOT SPRINGS SD 57747-2302

DAHL MC LEAN
11853 ACORN RIDGE RD
SPEARFISH SD 57783-3307

GENA PARKHURST
PO BOX 1914
RAPID CITY SD 57709-1914

CHERYL ROWE
7950 DARK CANYON RD
RAPID CITY SD 57701-4766

ROGER ROWE
7950 DARK CANYON RD
RAPID CITY SD 57701-4766

DAYTON O HYDE
PO BOX 932
HOT SPRINGS SD 57747-0932

SUSAN W WATT
PO BOX 790
HOT SPRINGS SD 57747-0790

RICK V SUMMerville
6509 SEMINOLE LN
RAPID CITY SD 57702-7088

DOUGLAS C UPTAIN
3213 W MAIN #112
RAPID CITY SD 57702-2314

ATTN:DORIS ANN MERTZ
CUSTER COUNTY LIBRARY
447 CROOKS STREET, SUITE 4
CUSTER, SD 57730

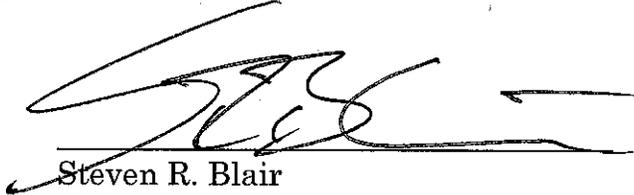
ATTN: ASHLEY CORTNEY
EDGEMONT PUBLIC LIBRARY
P.O. A / 412ND
EDGEMONT, SD 57735

ATTN: CINDY MESSENGER
HOT SPRINGS PUBLIC LIBRARY
2005 LIBRARY DR.
HOT SPRINGS, SD 57747

ATTN: JASON WALKER
RAPID CITY PUBLIC LIBRARY
610 QUINCY ST.
RAPID CITY, SD 57701

ATTN: MICHELLE MAY
WOKSAPE TIPI
OGLALA LAKOTA COLLEGE
P.O. BOX 310
KYLE, SD 57752

And the original of the same was filed on the same date with Michael D. Cepak,
Joe Foss Building, 523 E. Capitol Ave, Pierre, SD 57501

A handwritten signature in black ink, appearing to read "S. Blair", written over a horizontal line.

Steven R. Blair
Assistant Attorney General
Mickelson Criminal Justice Center
1302 East Highway 14, Suite 1
Pierre, South Dakota 57501
Telephone: (605) 773-3215

Minerals and Mining Program Expenditures for the Powertech Dewey-Burdock Project After Submittal of Mine Permit Application

Travel Expenditures (10/1/12 to date)

<u>Item</u>	<u>Units</u>	<u>Quantity</u>	<u>Rate</u>	<u>Cost</u>	<u>Personnel / Comments</u>
10/25/2012 Pre-mine Inspection					E Holm, B Hudson, M Cepak, M Keenihan
10/24-25/2012 Travel Mileage	300 miles	1 trip	0.50/mile	\$150.00	Powertech portion of travel (split with other inspections)
10/24-25/2012 Travel Mileage	200 miles	1 trip	0.50/mile	\$100.00	M Keenihan travel only
10/24/2012 Lodging	1 night	3 rooms	30.00/night	\$90.00	Powertech portion of travel (split with other inspections)
10/24-25/2012 Travel Per Diem				\$87.00	Powertech portion of travel (split with other inspections)
3/4-6/2013 Sampling					M Keenihan
3/4-6/2013 Travel Mileage	600	3 trips	0.50/mile	\$300.00	
3/4-6/2013 Travel Per Diem				\$27.00	
5/23/2013 Pre-Hearing Conference					E Holm, M Cepak
5/22-23/2013 Travel Mileage	200 miles	1 trip	0.50/mile	\$100.00	Powertech portion of travel (split with other inspections)
5/22/2013 Lodging	1 night	2 rooms	30.00/night	\$60.00	Powertech portion of travel (split with other inspections)
5/22-23/2013 Travel Per Diem				\$40.00	Powertech portion of travel (split with other inspections)
6/3/2013 Sampling					M Keenihan
6/3/2013 Travel Mileage	200 miles	1 trip	0.50/mile	\$100.00	
6/3/2013 Travel Per Diem				\$9.00	
Total Travel				\$1,063.00	

Manpower Expenditures for Review of Powertech Large Scale Mine Permit Application (October 1, 2012 to date)

<u>Name</u>	<u>Hours</u>	<u>Cost</u>	
M Cepak	403 hours	\$16,688.00	
E Holm	489 hours	\$16,851.00	
R Hudson	200 hours	\$6,590.00	
M Keenihan	53 hours	\$1,826.00	
P McQuay	854 hours	\$18,300.00	
R Townsend	40 hours	\$1,837.00	
Total Manpower		\$62,092.00	Gross salary + Health/Insurance + Other State Paid Benefits

Miscellaneous Expenditures (October 1, 2012 to date)

<u>Item</u>	<u>Cost</u>
Postage	\$500.00
Newspaper notices	\$500.00
5/23/2013 Pre-Hearing Room Rental	\$538.00
Total Miscellaneous	\$1,538.00
Total Expenditures (10/1/12 to date)	\$64,630.00