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December 15, 2023

VIA CERTIFIED MAIL & EMAIL: JOSEPH.GRAHAM@WISCONSIN.GOV

Joseph Graham
Project Manager
Wisconsin Department of Natural Resources
Wisconsin Department of Natural Resources
810 W. Maple Street
Spooner, WI 54801

RE: Midwest Energy Resources Company Response to Request for Information &
Introduction to Great Lakes Legacy Act
Amoco Oil Company Barge Dock Slip
Superior, Wisconsin
WDNR BRRTS # 11-16-591466

Dear Mr. Graham:

Quarles & Brady, LLP, on behalf of Midwest Energy Resources Company ("MERC"), submits this correspondence and enclosure in response to the October 20, 2023, Request for Information & Introduction referenced above from the Wisconsin Department of Natural Resources ("DNR") regarding MERC's facility at 2400 Winter Street, Superior, WI (the "Site") in connection with alleged sediment contamination at the Amoco Oil Company Barge Dock Slip in Superior (the "Slip"). The deadline for MERC to respond to the DNR Request for Information was extended to December 15, 2023.

Joseph Graham
December 15, 2023
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If you have any questions, please do not hesitate to contact me.

Sincerely,

QUARLES & BRADY LLP



Lauren R. Harpke

LRH:lg1
Enclosures

cc: (via email only)
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RESPONSE OF MIDWEST ENERGY RESOURCES COMPANY TO THE REQUEST FOR INFORMATION OF THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES DATED OCTOBER 20, 2023, RELATING TO THE AMOCO OIL COMPANY BARGE DOCK SLIP

1. Midwest Energy Resources Company (“MERC”), by and through its attorneys, makes the following responses to the requests set forth in the October 20, 2023, Request for Information & Introduction (collectively, the “Requests”) from the Wisconsin Department of Natural Resources (“DNR”) regarding the alleged sediment contamination at the Amoco Oil Company Barge Dock Slip in Superior (the “Slip”).
2. During the period MERC has operated at the Site, many MERC employees have changed employers, died, retired, and/or relocated. MERC made good-faith efforts to collect information from employees in positions that may have made them knowledgeable about the Requests.
3. MERC’s responses herein are based solely upon facts known as of December 15, 2023. MERC made good-faith efforts to identify and review reasonably available information in responding to the Requests. MERC may become aware of supplemental, additional, or other responsive information or documents and reserves the right to update, amend, or supplement this response and documents referenced herein. All responses are given without prejudice to MERC’s right to present additional responses or documents based upon information hereafter identified, obtained, or developed.
4. Where MERC has relied on documents in providing responses to the Requests, and to the extent that such documents are not protected by any applicable privilege, such documents may be provided under separate cover.
5. MERC objects to the Requests to the extent that they seek documents and/or information that are privileged attorney-client communications, attorney work product, proprietary, trade secrets, confidential business information, or subject to any other applicable privileges or protections. Subject to and without waiving applicable privileges, MERC provides this response consisting of such non-privileged information, if any, that MERC believes to be responsive to the Requests.
6. MERC objects to the Requests to the extent they are overbroad, unduly burdensome, and not reasonably related to information concerning MERC activities reasonably likely to have a nexus with alleged sediment contamination at the Slip.
7. MERC objects to the Requests to the extent they use terms that are ambiguous, vague, or undefined.
8. MERC objects to the Requests to the extent they seek information beyond the scope of MERC’s control, including information about entities and individuals beyond MERC’s control.
9. MERC objects to the Requests to the extent that they seek documents already in the custody or control of the DNR.
10. MERC has limited its inquiries in connection with the Requests to MERC’s facility at 2400 Winter Street, Superior, WI (the “Site”). To the extent the DNR has in its possession, custody, or control information regarding any nexus between MERC and the Slip, MERC respectfully requests that DNR provide copies of such information for MERC’s review.

REQUESTS AND RESPONSES

1. Identify the current owner and operator of the Site. State the dates during which the current owner and operator owned, operated, leased, or occupied any portion of the Site and provide copies of all documents evidencing such ownership, operation, lease, or occupation, including but not limited to purchase and sale agreements, deeds, leases, etc.

MERC Response: Subject to and without waiving its general objections, to the best of our knowledge, the Site is currently owned by KM Superior Terminals, Inc. (the “Current Landlord”), which acquired the Site in or about January 2017 from The C. Reiss Coal Company. MERC does not have in its possession or control other documents regarding current ownership.

Neither MERC, nor its parent entity, subsidiaries or affiliates, currently owns nor has ever owned the Site. MERC has leased the Site since December 1, 1974, pursuant to a *Lease Agreement* of the same date (the “Lease”). See additional discussion in responses to Requests #3 and #7 below.

Schedule 1 includes copies of (a) *Memorandum of Lease* between The C. Reiss Coal Company and MERC, dated February 24, 1975, and recorded in Douglas County as Document 523950;¹ (b) relevant pages from *Lease Agreement*, dated December 1, 1974, between The C. Reiss Coal Company and MERC showing effective dates and parties; (c) letter from MERC, dated June 3, 2020, to Koch Minerals exercising the most recent five-year extension to the Lease; and (d) letter from KM Superior Terminals, Inc. to MERC, dated January 6, 2017, notifying MERC of the Site’s conveyance and assignment of the Lease to KM Superior Terminals, Inc.

2. Identify any persons who in addition to the owner/operator exercises actual control over the Site or who holds significant authority to control activities at the Site.

MERC Response: MERC objects to this Request on the grounds that the phrase “significant authority to control activities at the Site” is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, to the best of our knowledge, no persons other than the Current Landlord and/or MERC currently own or operate at the Site.

3. Identify any legal or equitable interest that you now have, or previously had, in the Site and describe the nature of any such interest, including when, how, and from whom such interest was obtained as well as when, how, and to whom such interest was conveyed. Provide documentation evidencing the acquisition or conveyance of any identified interest.

MERC Response: MERC directs DNR to its response to Request #1 for information regarding MERC leasing the Site. Under the terms of the Lease, MERC holds title to buildings and improvements situated on the Site during the term of the Lease, and Current Landlord has an option to acquire title to same upon expiration of the term of the Lease.

In connection with the Lease, it was the parties’ intention to also include the rights, privileges, and premises to be obtained and leased from the State of Wisconsin in connection with riparian

¹ Please note that the term referenced in Section 2 of the Memorandum of Lease is incorrect. The reference to a term commencing on “December 1, 1975” should read “December 1, 1974.”

rights at the Site. To memorialize that intention, MERC and The C. Reiss Coal Company (the “Assignor”) entered into an *Assignment and Sublease*, dated May 12, 1975 (the “Assignment”), by which Assignor assigned and sublet to MERC the rights, privileges, premises, and obligations as described in a related underlying agreement between the State of Wisconsin and Assignor. Schedule 3 includes a copy of the May 12, 1975 Assignment, which also includes a copy of the underlying *Lease of Rights Pursuant to Section 24.39, Statutes*, between the State of Wisconsin and Assignor, dated April 23, 1975.

4. Identify all hazardous substance discharges that have occurred at or from the Site and other actual or potential environmental pollution that has been found at the Site, including any hazardous substance discharge into, or environmental pollution found in, a subsurface disposal system or floor drain inside or under any building at the Site. Provide all documentation including reports and data related to hazardous substance discharges and actual or potential environmental pollution of soil, sediment, water (ground or surface) or air quality at or around the Site.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC is providing the response below and responsive documents in its possession pertaining only to the period of time that MERC has operated at the Site that MERC has located in its records as of the date of this response, which documents speak for themselves and are attached hereto as Schedule 4. MERC is unaware of any information or documentation in its possession or control responsive to this Request for periods prior to MERC’s occupancy of the Site and has not independently searched public records for information responsive to this Request.

Schedule 4 includes responsive documents pertaining to spills or releases identified by MERC at the Site, including accidental releases, emergency stormwater bypasses, and unscheduled wastewater bypasses. Responsive records of those reportable instances are included in Schedule 4.

MERC implements a zero-tolerance policy with respect to sheens or evidence of spills observed in the surface water of the St. Louis River regardless of source or connectedness to MERC operations at the Site. Responsive records related to those observations are also included in Schedule 4.

Additionally, buried asbestos shingles were identified at the Site during rail spur extension work in the 1990s. MERC contracted with a third party for proper removal and disposal offsite. MERC has been unable to locate documentation regarding this on-Site removal work. It is MERC’s understanding that these shingles pre-dated MERC operations at the Site.

5. If you are the current owner and/or current operator of the Site, did you acquire or operate the Site or any portion of the Site after the discharge of any hazardous substance on or at the Site? Did you know or have reason to know of any discharge of any hazardous substance on or at the Site before acquiring or operating the Site? Describe all environmental investigations of the Site you undertook before acquiring or operating the Site and provide all documentation of investigations performed.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request. For ownership information during the periods prior to MERC's occupancy of the Site, MERC refers DNR to the ownership history in its Response to Question 6.

6. Identify all prior owners of the Site. For each prior owner, further identify: a. The dates of ownership, b. All evidence showing that each identified owner controlled the Site; and c. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified owner owned the Site.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC is unaware of any documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request regarding former property ownership or evidence of hazardous substance discharge or pollution during the periods of such former ownership.

Upon information and belief, MERC understands the ownership history of the Site to be as follows:

- KM Superior Terminals, Inc (Jan 2017 – present)
- C. Reiss Coal Co. (2/20/1975 to Jan. 2017)
- Burlington Northern, Inc. (8/12/1974 to 2/20/1975)
- Superamerica Station Inc. (Superamerica Stores) (3/27/1967 to 8/12/1974)
- U.S. Gypsum (2/5/1958 to 3/27/1967)
- City of Superior (7/1/1955 to 2/5/1958)
- North Western-Hanna Fuel Co. (1/2/1943 to 7/1/1955)
- Northwest Fuel Co. (11/11/1912 to 1/2/1943)
- Northern Pacific Railway Co. (unknown to 11/11/1912)

7. Identify all prior operators of the Site, including lessors. For each prior operator, further identify: a. The dates of operation, b. The nature of prior operations at the Site, c. All evidence that each identified operator controlled the Site; and d. All evidence of any hazardous substance discharge or environmental pollution (including coal) at or from the Site and/or its solid waste units during the period that each identified operator operated the Site.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, upon information and belief, ORBA Transshipment Company and/or ORBA Corporation and Reiss Transshipment Company developed and operated the Site either individually or as a formal or informal joint venture that may have gone by the name "ORTRAN" or "ORBA-Reiss Transshipment Company" (the foregoing entities are collectively referred to herein as "ORBA-Reiss") from approximately the start of MERC's lease term until approximately 1986 or 1987, after which time MERC was the sole operator of the Site. The photographs and as-built drawings produced in Schedule 14 appear to have been prepared on

behalf of "ORBA." MERC was otherwise unable to locate documentation reflecting the historic operation of the Site by ORBA-Reiss.

MERC is otherwise unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

8. Describe the nature of your activities, business, or operations at the Site with respect to generating, transporting, storing, treating, or disposing hazardous substances or solid or hazardous waste (including coal) at the Site.

MERC Response: Subject to and without waiving its general objections, MERC operates the Site for unloading, storage, and transshipment of western low sulfur sub-bituminous coal and petroleum coke for use at Michigan-based DTE Electric power plants and third-party customers. Coal is transported to the Site by railcars from the western United States. During the navigation season (generally March through January), lake transport vessels carry the coal from the Site to end-use destinations. Coal is also transported year-round via truck to third-party customers in Wisconsin and Minnesota. Outside of navigation season, coal received at the Site is stockpiled on the Site.

The Site's runoff and leachate collection and treatment system is comprised of a clay-lined storm water collection moat that prohibits unwanted discharge to surface water. The Site has been surrounded by the collection moat since MERC (and ORBA-Reiss) first commenced operation.

All hazardous and solid waste is shipped offsite via third party waste service providers and not disposed of on the Site. Solid waste generated at the Site consists of typical office and household trash and recyclables that are picked up and disposed of offsite by Waste Management. MERC also generates the following waste streams, which are picked up and disposed of offsite by the noted third-party transport and disposal company.

Spent aerosols	--	Como Lube and Supply
Aqueous parts washing	--	Safety Kleen
Oil/water separating sump	--	Safety Kleen
Floor dry, crushed oil filters	--	Como Lube and Supply
Spent fluorescent bulbs, LEDs	--	Mercury Technologies
Septic holding tanks	--	Geno's
Lead-acid batteries	--	Interstate Battery
Other batteries	--	Mercury Technologies

9. If any hazardous substances or solid or hazardous waste (including coal) was ever generated, transported, stored, treated, or disposed of at the Site, identify and provide all documentation which relates to: (a) the type, quantity, chemical composition, characteristics and physical state (e.g., solid, liquid) of hazardous substances or solid or hazardous waste generated, transported, stored, treated or disposed of at the Site and the dates that such activities occurred; (b) the identity of all persons who generated, transported, treated, stored, or disposed of such substances or waste at the Site; and (3) the identity of all subsidiary or parent corporations of identified persons.

MERC Response:

MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC provides the following responses with respect to its period of operation at the Site. MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site or pertaining to entities unrelated to MERC.

(a) the type, quantity, chemical composition, characteristics and physical state (e.g., solid, liquid) of hazardous substances or solid or hazardous waste generated, transported, stored, treated or disposed of at the Site and the dates that such activities occurred:

MERC refers the DNR to its responses to Request #s. 4, 7, 8, 12, and 13 herein to the extent that this Request asks for duplicative information.

Additionally, attached as Schedule 9 are specification sheets showing typical coal and pet coke quality for different types of solid materials handled at the Site. While these specification sheets reflect current or recent coal and pet coke materials, it is MERC's understanding that coal handled throughout MERC's operation of the Site would have been substantially similar. Since MERC began operations, over 500 million tons of coal have been transshipped from the Site. A summary of annual shipments is included in Schedule 9.

MERC has operated the Site as a small quantity generator of hazardous waste from 2016 through the present. From at least 2008² through 2015, MERC operated the Site as a very small quantity generator of hazardous waste. Most of the hazardous waste generated by MERC at the Site is composed of spent aerosols, with some intermittent disposal of contaminated soils, miscellaneous contaminated chemicals and paints, and waste oil containing lead and chromium. Spent aerosols are stored in labeled, sealed barrels until they are transported offsite for disposal by Como Lube and Supplies. The remaining types of hazardous waste are picked up for offsite disposal by Safety Kleen as needed. Records responsive to this Request that MERC has located in its records are included in Schedule 9.

(b) the identity of all persons who generated, transported, treated, stored, or disposed of such substances or waste at the Site:

During the period of approximately 1986 or 1987 (MERC refers the DNR to its responses to Request #7 regarding prior operation of the Site by ORBA-Reiss) to the present:

- MERC was the entity responsible for generating solid and hazardous waste on the Site. MERC refers the DNR to its responses to Request #8 regarding persons responsible for offsite transportation and disposal of solid and hazardous waste.
- Coal and pet coke materials were transported to the site via Burlington Northern Santa Fe and Union Pacific railway lines.
- Coal and pet coke materials were transported from the Site primarily via the following four vessel companies: Interlake Steamship; American Steamship; Algoma (Canadian vessel line); and Canadian Steamship. Additionally, smaller quantities were transported to third parties via Lakehead Trucking, who also subcontracted with J&B Trucking and Walt Moss Trucking companies.

² MERC was unable to locate documentation showing when MERC first obtained very small quantity generator status for operations at the Site.

(c) the identity of all subsidiary or parent corporations of identified persons:

MERC is a subsidiary of DTE Electric Company, a Michigan Corporation, headquartered at One Energy Plaza, Detroit, Michigan 48226. MERC does not have any subsidiaries.

10. Describe with specificity all occurrences where a Site owner, operator, or person in control over the Site was determined by a federal, state, or local authority to have violated any environmental law or where any environmental violation or deficiency was discovered at the Site, including any violation or deficiency that resulted in the issuance of a citation or the commencement of any enforcement or legal action. Identify the federal, state, and local authorities involved in each identified occurrence. Provide all documentation related to each identified occurrence.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, after completing a reasonable investigation, MERC has not identified violations, citations, enforcement actions, or legal actions under environmental law with respect to its operations at the Site.³ MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

11. Provide a list of all local, state, and federal environmental permits ever granted for the Site or any part thereof (e.g., Resource Conservation and Recovery Act (RCRA) permits, National Pollutant Discharge Elimination System (NPDES) permits, etc.).

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, below is a list of current local, state, and federal environmental permits held by MERC for operation of the Site. MERC has not been able to locate copies of its expired/superseded environmental permits but understands that such copies may be located in DNR's records.

Air Pollution Control Operation Permit Number 81601330-F20, issued by the Wisconsin Department of Natural Resources on July 1, 2015, and expiring on July 1, 2020. MERC timely submitted a renewal application for this permit on December 12, 2019.

Permit to Discharge Under the Wisconsin Pollutant Discharge Elimination System Number WI-0038946-11-0, issued by the Wisconsin Department of Natural Resources, effective January 1, 2023, and expiring on December 31, 2025.

Notice of Coverage Under the Water Use General Permit No. 1 for Property Number 6111 issued by the Wisconsin Department of Natural Resources and dated October 1, 2021.

³ MERC has received certain close-out documentation from the United States Coast Guard ("USCG") in connection with sheens observed and reported, which have been provided in response to Request #4. While the USCG documents are characterized as a "warning," MERC does not consider this close-out documentation to amount to a violation or deficiency responsive to this Request #10.

Hazardous Waste Generator Identification Number WID040830721, issued by the United States Environmental Protection Agency.

MERC also understands that certain operations and activities at the Site would have resulted in periodic dredging, grading, and/or construction permits.

MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

12. Did the Site ever file a Hazardous Waste Activity Notification under the Resource Conservation and Recovery Act (RCRA)? If so, provide documentation of such notification.

MERC Response: MERC objects to this Request on the grounds that it is vague, ambiguous and unclear. For purposes of this response, we assume this Request for a "Hazardous Waste Activity Notification" relates to EPA's *RCRA Subtitle C Site Identification Form* (8700-12) or EPA's *Hazardous Waste Report* (8700-13/A/B) by which a generator notifies EPA of certain hazardous waste activity, including generator status and/or treatment, storage, and disposal facility ("TSDF") activities.

Subject to and without waiving the foregoing and its general objections, MERC responds that it currently operates the Site, and since 2016 has operated the Site, as a small quantity generator of hazardous waste with generator identification number WID040830721. Prior to 2016, MERC operated the Site as a very small quantity generator although MERC was unable to locate documentation showing the precise date such generator status commenced.

MERC does not operate and has not formerly operated as a TSDF at the Site.

MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

13. Did the Site ever have "interim status" under the Resource Conservation or Recovery Act (RCRA)? If so, and the Site does not currently have interim status, describe the circumstances under which the Site lost interim status.

MERC Response: Subject to and without waiving its general objections, MERC has not operated the Site as a TSDF with interim status nor had such status lost. MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

14. Provide the following information about the Site, if applicable:

- a. **Property boundaries, including a written legal description,**
- b. **Location of underground utilities (telephone, electrical, sewer, water main, etc.),**
- c. **Surface structures (e.g., buildings, tanks, etc.),**
- d. **Groundwater wells, including drilling logs,**

- e. **Storm water drainage systems, and sanitary sewer systems, past and present, including septic tank(s), subsurface disposal field(s), and other underground structures; and where, when and how such systems are emptied,**
- f. **All additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., prior removal or excavation of contaminated soil or sediment); and any planned additions, demolitions or other changes to the site,**
- g. **Geology and hydrogeology at and around the Site,**
- h. **Maps and drawings of the Site depicting the property boundaries and property features identified above; and**
- i. **Photographs of the Site, past and present, including aerial photographs.**

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC is providing the narrative responses for each subpart below and responsive documents in its possession pertaining only to the period of time that MERC has operated at the Site and that MERC has located in its records as of the date of this response, which documents speak for themselves and are attached hereto as Schedule 14. MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

- a. *Property boundaries, including a written legal description:*

MERC directs the DNR to Attachment A of the Memorandum of Lease included in Schedule 1 for a written legal description of the Site's boundaries.

- b. *Location of underground utilities (telephone, electrical, sewer, water main, etc.):*

Schedule 14 contains a map of underground utilities at the Site.

- c. *Surface structures (e.g., buildings, tanks, etc.):*

Maps and figures showing surface structure are included in Schedule 14.

- d. *Groundwater wells, including drilling logs:*

The Site is serviced by municipal water sources and not an onsite potable well. No other wells are known by MERC to be present at the Site.

- e. *Storm water drainage systems, and sanitary sewer systems, past and present, including septic tank(s), subsurface disposal field(s), and other underground structures; and where, when and how such systems are emptied:*

The Site currently has four underground septic holding tanks for sanitary discharges, the locations and approximate capacities of which are identified below. The holding tanks are routinely pumped and the contents disposed of offsite by a licensed contractor.

- Office building 10,000 gallons
- Dumper building 5,000 gallons
- Guard house 2,000 gallons
- Water Treatment Plant 5,000 gallons

The Site currently has three registered underground storage tanks in addition to several former tanks, the registration details for which are included in Schedule 14.

The Site’s runoff and leachate collection and treatment system is comprised of a clay-lined storm water collection moat that prohibits unwanted discharge to surface water. The Site has been surrounded by the collection moat since MERC first commenced operation.

Maps and figures showing storm water drainage systems and underground structures at the Site are included in Schedule 14.

- f. All additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., prior removal or excavation of contaminated soil or sediment); and any planned additions, demolitions or other changes to the site:*

MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, MERC has identified the following history of construction and additions to physical structures on the Site. No future construction, demolition or addition work is planned.

Years	Description
1974-1976	Original buildout that included train dumping system, conveyors & galleries, coal reclaim system, wharf, ship loader, retention moat, water treatment, and rail tracks.
1985	Maintenance building addition.
1986	Office building addition.
1993	Expansion of reclaim system and overhead conveyor system to allow for more coal storage with a larger footprint.
2007	Added dome (roof) to water clarifier.
2007	Office and Maintenance Shop expansion.
2007	Mobile Equipment Wash Bay
2009	Spare railcar dumper storage building
2011	Guard House at the West Entrance (Main)
2012	Weir Gates added to retention moat
2012	North Water Truck Fill Station
2013	South Maintenance Building – MCC Reconstruction
2013	Stormwater Moat Control Culvert

2014	Electrical Warehouse addition
2014	South Water Truck Fill Station
2016	Mechanical Warehouse addition
2019	Mechanical Warehouse addition
Numerous years	Since the late 1990s, numerous road additions, improvements, and repaving projects have been done for coal hauling truck traffic

MERC also refers DNR to its responses in Question #4 for information regarding removal of excavation of contaminated material or sediment.

g. Geology and hydrogeology at and around the Site:

Documentation from soil borings conducted in 1976 in connection with building construction at the Site are included in Schedule 14.

h. Maps and drawings of the Site depicting the property boundaries and property features identified above;

MERC directs DNR to Schedule 14 for maps and figures depicting the features identified above.

i. Photographs of the Site, past and present, including aerial photographs.

MERC has included copies of certain representative photographs depicting Site layout and features.

15. Describe the conditions of any physical plant facility at the Site during the years each operator operated at the Site, including the status of equipment (operating or dormant), general condition of the facility (e.g., leaking pipes, corroded drain or new piping installed), quality of maintenance (e.g., equipment in disrepair or inspected monthly), adherence to procedures (improper handling of chemicals, incomplete/absent policies, quality of supervision), and management of the plant.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome. Subject to and without waiving the foregoing and its general objections, and with respect to MERC's occupancy and operation of the Site, MERC operates under a formal preventative maintenance plan resulting in regular and thorough inspections and prompt attention to repairs when identified. As a result, the facility and equipment are in good condition. No equipment is currently dormant. MERC is not aware of material deficiencies in necessary operational policies or facilities management.

MERC is unaware of any information or documentation in its possession or control responsive to this Request and has not independently searched public records for information responsive to this Request for periods prior to MERC's occupancy of the Site.

16. Are you or your consultants planning to perform any investigations of the soil, sediment, water (ground or surface), geology, hydrology or air quality on or about the Site? Provide all documentation concerning any investigation you have conducted or plan to conduct at or around the Site.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome and to the extent such information is protected by any applicable privilege. Subject to and without waiving the foregoing and its general objections, MERC does not have plans to perform such investigations at the Site. With respect to previously performed investigations, we refer the DNR to the information provided in connection with Request #4. Additional responsive documents are included in Schedule 16.

17. Describe all potential pathways for migration of contamination, including airborne deposition, drainage improvements, utility corridors, sediments, bedrock and permeable material or soil along which dust/particulate, vapors, and free product may flow as well as potential pathways contaminated water may flow.

MERC Response: MERC objects to this Request on the grounds it is vague, ambiguous, overbroad, and/or unduly burdensome.

Subject to and without waiving the foregoing and its general objections, MERC refers the DNR to the information provided in response to Request #14 with respect to utility corridors and improvements.

Wastewater and storm water discharge from MERC's operations are permitted as discussed above in response to Request #11.

Additionally, the Site is surrounded by a clay-lined storm water collection moat that prohibits unwanted discharge to surface water. The Site has been surrounded by the collection moat since MERC first commenced operation.

MERC operates the Site in accordance with a fugitive dust plan.