

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

**IN RE BENTONITE PERFORMANCE) DOCKET 18-1601
MINERALS LLC)**

BENTONITE PERFORMANCE MINERALS, LLC'S FINAL LIST OF WITNESSES AND EXHIBITS

Bentonite Performance Minerals, LLC ("BPM"), by and through undersigned counsel, submits its witness and exhibit lists in anticipation of the hearing scheduled January 16, 2019, as follows:

1. WITNESSES

BPM will call the following witnesses at the hearing:

a. Tyler Tetrault, BPM Mineral Resource Coordinator, c/o Holland & Hart, Cheyenne, WY; 307-778-4200.

Mr. Tetrault will testify regarding BPM's communications and negotiations with 2U regarding BPM's proposed mining activities and their impacts on 2U's operations, including BPM's efforts to minimize impacts resulting from the proposed operations. He will testify regarding any documents he authored or received or regarding any exhibits introduced through him.

b. Jennifer Hartman, BPM Environmental Specialist, c/o Holland & Hart, Cheyenne, WY; 307-778-4200.

Ms. Hartman will testify regarding 1) the WDEQ/LQD surface mine permitting process, including the identification of pre- and post-mine land uses; 2) BPM's past mining and reclamation operations on 2U's surface lands; and 3) BPM's proposed plan to reclaim 2U's surface lands disturbed by the proposed mining operations, including methods and schedules. She will testify regarding any documents she authored or received or regarding any exhibits introduced through her.

BPM may call the following witness at the hearing:

c. Kyle Wendtland, WDEQ.

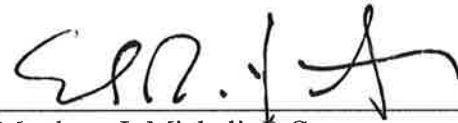
Kyle Wendtland may be called to testify regarding WDEQ's review of files relating to BPM and Wyoming State Mineral Lease 42804, WDEQ-LQD Mining Permit 267C, and Amendment TFN #6 1/197, and the considerations, recommendations and decisions related to that review, as well as LQD's communications with 2U regarding same.

d. BPM reserves the right to call other witnesses to rebut or explain evidence presented by Respondent, 2U Ranch.

2. EXHIBITS

BPM may introduce at the hearing the exhibits listed on the Final List of BPM Hearing Exhibits, attached hereto. In addition to the documents on its exhibit list, BPM reserves the right to use any additional exhibits it deems necessary, including documents listed on 2U Ranch's exhibit lists, and any documents necessary for foundation, cross-examination, or rebuttal.

DATED this 6 February 2019.



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CERTIFICATE OF SERVICE

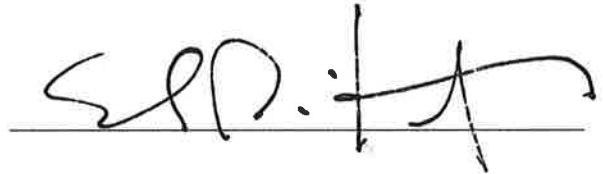
I certify that on February 6, 2019 I served a copy of the foregoing document to the following by email:

Scott Ericsson/2U Ranch
scottaericsson@gmail.com

Ronald Ericsson
ericsson@childselect.com

Roland Ericsson
rolandericsson@cox.net

Jim Ruby
Executive Secretary, Wyoming Environmental Quality Council
jim.ruby@wyo.gov

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

**BEFORE THE WYOMING ENVIRONMENTAL QUALITY COUNCIL (DOCKET NO. 18-1601)
FINAL LIST OF BPM HEARING EXHIBITS**

EXH NO.	DATE	DESCRIPTION
MINE & REC PLAN		
BPM 1.	Undated	Mine Plan (bates BPM 000001-000004 2U)
BPM 2.	05/12/18	Mine Plan map (BPM 000005 2U)
BPM 3.	Undated	Reclamation Plan (BPM 000006-000009 2U)
BPM 4.	01/28/16	Reclamation Plan map (BPM 000010 2U)
NEGOTIATION CORRESPONDENCE		
BPM 5.	01/12/15	Draft Amendment to Surface Use and Haulage Agreement (BPM 000011-000013 2U)
BPM 6.	02/2015	Proposal Letter from Scott Ericsson to Tetrault (BPM 000014-000015 2U)
BPM 7.	02/2015	Letter from Severin and Tetrault to Scott Ericsson re: proposal (BPM 000016-000018 2U)
BPM 8.	05/2015	Letter between BPM and Scott Ericsson re: proposal (BPM 000019-000021 2U)
BPM 9.	07/14/15	Scott email to BPM re: Logging on BMP mining areas, request for shapefiles (BPM 000022 2U)
BPM 10.	07/15/15	Tetrault email to Scott re: Logging on BMP mining areas, request re: certain projection for shapefile (BPM 000023 2U)
BPM 11.	07/15/15	Coburn email to Tetrault re: Logging on BMP mining areas, projection (BPM 000024 2U)
BPM 12.	07/15/15	Tetrault email to Coburn re: Logging on BMP mining areas, providing shapefile (BPM 000025 2U)
BPM 13.	12/30/15	Coburn email to Tetrault re: Logging on BMP mining areas, agreement on timber (BPM 000026 2U)
BPM 14.	12/30/15	Coburn forward of email to Ronald of Tetrault email re: Logging on BMP mining areas (BPM 000027 2U)
BPM 15.	12/31/15	Ronald email to Tetrault re: Logging on BMP mining areas, 100% (BPM 000028 2U)
BPM 16.	12/31/15	Tetrault email to Ronald re: Logging on BMP mining areas, shapefile earlier this year (BPM 000029 2U)
BPM 17.	01/04/16	Ronald email to Tetrault re: Logging on BMP mining areas, request for maps (BPM 000030 2U)
BPM 18.	01/08/16	Tetrault email to Ronald and Scott re: Logging on BMP mining areas, mine plan map (BPM 000031 2U)
BPM 19.	01/08/16	Tetrault email to Ronald and Scott re: Logging on BMP mining areas, reclamation map (BPM 000032 2U)
BPM 20.	01/25/16	Tetrault email to Roland and Scott re: Logging on BMP mining areas, look over mine plan and reclamation plan maps (BPM 000033 2U)
BPM 21.	01/27/16	Ronald email to Tetrault re: Logging on BMP mining areas, requesting number of acres disturbed in 2015 (BPM 000034 2U)

EXH NO.	DATE	DESCRIPTION
BPM 22.	01/29/16	Tetrault email to Ronald re: Logging on BMP mining areas, number of acres disturbed in 2015 and anticipated 2016 disturbance (BPM 000035 2U)
BPM 23.	02/01/16	Scott email to Tetrault re: Logging on BMP mining areas, will review mining plan (BPM 000036 2U)
BPM 24.	02/02/16	Scott emails to Tetrault re: Mine Plan – edited w/attached questions, comments, and revised mining map (BPM 000037-000040 2U)
BPM 25.	02/02/16	Tetrault email to Scott and Ronald re: Logging on BMP mining areas, request for call on comments and edits (BPM 000041 2U)
BPM 26.	02/03/16	Scott email to Tetrault re: Mine Plan – edited, two-track road, w/edited mining map attached (BPM 000042-000043 2U)
BPM 27.	02/03/16	Tetrault email to Scott and Ronald re: Logging on BMP mining areas, call re: edited mining map (BPM 000044 2U)
BPM 28.	02/04/16	Tetrault email to Scott re: Logging on BMP mining areas, revised reclamation map and surface owner consent form attached (BPM 000045-000047 2U)
BPM 29.	02/04/16	Scott email to Tetrault re: Logging on BMP mining areas, will go over 2/4/16 package (BPM 000048 2U)
BPM 30.	02/04/16	Tetrault email to Scott re: Surface Owner Form, BPM-Response to mining and reclamation maps (attached) (BPM 000049-000051 2U)
BPM 31.	02/05/16	Scott email to Tetrault re: Surface Owner Form, Reclamation Map 4 revised (attached) (BPM 000052-000053 2U)
BPM 32.	02/05/16	Tetrault email to Scott re: Surface Owner Form, total disturbed acres (BPM 000054 2U)
BPM 33.	02/09/16	Tetrault email to Scott re: Surface Owner Form, please sign unless other questions (BPM 000055 2U)
BPM 34.	02/09/16	Scott email to Tetrault re: Surface Owner Form, additional ponds and mining duration (BPM 000056 2U)
BPM 35.	02/09/16	Tetrault email to Scott and Ronald re: Surface Owner Form, additional ponds and mining duration (BPM 000057 2U)
BPM 36.	02/10/16	Scott email to Tetrault re: Surface Owner Form, kitty litter (BPM 000058 2U)
BPM 37.	02/10/16	Tetrault email to Scott re: Surface Owner Form, requesting SOF and SUA call (BPM 000059 2U)
BPM 38.	02/15/16	Tetrault email to Scott and Ronald re: Draft Agreement (attached) (BPM 000060-000069 2U)
BPM 39.	02/19/16	Scott email to Tetrault and Severin re: Draft Agreement w/map of fences attached (BPM 000070-000071 2U)
BPM 40.	03/03/16	Tetrault email to Scott and Ronald re: Draft Agreement, response to proposal (BPM 000072-000073 2U)
BPM 41.	03/07/16	Scott email to Tetrault re: Draft Agreement, one-sided agreement (BPM 000074 2U)
BPM 42.	03/08/16	Scott email to Tetrault and Severin re: Items pertaining to the agreement (BPM 000075 2U)

EXH NO.	DATE	DESCRIPTION
BPM 43.	03/09/16	Tetrault email to Ericssons re: Items pertaining to the agreement, response (BPM 000076 2U)
BPM 44.	03/10/16	Scott email to Tetrault re: Items pertaining to the agreement, requesting revised agreement (BPM 000077 2U)
BPM 45.	03/11/16	Tetrault email to Ericssons re: Items pertaining to the agreement, response to offer and well casing jpg (BPM 000078-000080 2U)
BPM 46.	03/14/16	Ronald email to Tetrault and Severin re: Bentonite Production and Markets w/Waiver of Liability attached (BPM 000081-000084 2U)
BPM 47.	09/13/16	Tetrault email to Ericssons re: Agreements w/latest draft attached (BPM 000085-000094 2U)
BPM 48.	09/17/16	Roland email to Tetrault re: Agreements, comments on SUHA (BPM 000095-000096 2U)
BPM 49.	09/22/16	Scott email to Tetrault and Severin re: 2U Ranch LLC Haulage and Surface Use Agreement w/revised SUHA attached (BPM 000097-000106 2U)
BPM 50.	10/28/16	Tetrault email to Ericssons re: 2U Ranch LLC Haulage and Surface Use Agreement w/proposed changes to SUHA attached (BPM 000107-000125 2U)
BPM 51.	01/11/16	Ronald email re: not paying for the trees (BPM 000126 2U)
BPM 52.	11/04/16	Scott email to Tetrault and Severin re: 2U Ranch LLC Haulage and Surface Use Agreement re: quid pro quo (BPM 000127 2U)
BPM 53.	11/04/16	Tetrault email to Ericssons re: 2U Ranch LLC Haulage and Surface Use Agreement, area not covered under 3-year contract (BPM 000128 2U)
BPM 54.	11/07/16	Scott email to Tetrault re: 2U Ranch LLC Haulage and Surface Use Agreement, logging initiated due to mining (BPM 000129 2U)
BPM 55.	11/07/16	Tetrault email to Scott re: 2U Ranch LLC Haulage and Surface Use Agreement, time frame of mining and trees (BPM 000130-000131 2U)
BPM 56.	11/29/16	Tetrault email to Scott re: 2U Ranch LLC Haulage and Surface Use Agreement, touching base re: draft SUHA (BPM 000132 2U)
BPM 57.	11/30/16	Scott email to Tetrault re: re: 2U Ranch LLC Haulage and Surface Use Agreement, deal w/agreement after holidays (BPM 000133 2U)
BPM 58.	01/06/17	Ronald email to Tetrault re: Land Disturbed 2016, preparing budget (BPM 000134 2U)
BPM 59.	01/06/17	Tetrault email to Ericssons re: Land Disturbed 2016, conservative estimate (BPM 000135 2U)
BPM 60.	01/09/17	Scott email to Tetrault re: Land Disturbed 2016, 3-yr. plan and want more detail (BPM 000136 2U)
POST-NEGOTIATION CORRESPONDENCE		
BPM 61.	03/09/17	BPM letter to Ronald re: Mining Lease between Lonesome Country Ltd. ("LC") and Bentonite Performance Minerals ("BPM") (BPM 000188-000193 2U)

EXH NO.	DATE	DESCRIPTION
BPM 62.	07/28/17	Roland and Mazzone email re: BPM, Mining Plan, meeting (BPM 000194-000195 2U)
BPM 63.	08/14/17	Mazzone email to Roland re: BPM – Your proposal of Aug 8 (BPM 000196-000197 2U)
BPM 64.	08/15/17	Roland email to Mazzone re: No Meeting (BPM 000198-000200 2U)
BPM 65.	08/15/17	Ronald email re: BPM – Your proposal of Aug 8, No, No, No, No (BPM 000201 2U)
BPM 66.	09/22/17	BPM letter to 2U Ranch, GLAM, and Sextus re: Offer to Purchase Right-of-Way Haulage Easement, Bentonite Performance Minerals Surface Access w/exhibits (BPM 000202-000241 2U)
BPM 67.	09/22/17	BPM letter to 2U Ranch, GLAM, and Sextus re: Bentonite Performance Minerals, LLC Surface Owner Consent w/exhibits (BPM 000242-000276 2U)
BPM 68.	10/18/17	BPM letter to 2U Ranch, GLAM, and Sextus re: Bentonite Performance Minerals, LLC Surface Access (BPM 000277-000278 2U)
BPM 69.	11/13/17	Ronald letter to Severin re: WSL 42804, Permit 267C amendment, tree restoration (BPM 000279 2U)
BPM 70.	11/30/17	Ronald email to DEQ re: Wyoming State Mineral Lease 42804 and amended Department of Environmental Quality Mining Permit 267C w/attached 11/28/17 Ericssons letter to Governor, et al. (BPM 000280-000291 2U)
BPM 71.	05/24/18	BPM letter to 2U Ranch re: Bentonite Performance Minerals, LLC Surface Owner Consent w/mining and reclamation plans and Surface Landowner's Consent form attached (BPM 000292-000304 2U)
BPM 72.	06/26/18	2U Ranch letter to BPM re: Letter – Bentonite Performance Minerals, LLC Surface Owner Consent (BPM 000305 2U)
BPM 73.	06/29/18	BPM letter to 2U Ranch re: unwillingness to consent to proposed operations (BPM 000306-000309 2U)
BPM 74.	07/05/18	BPM's Petition for Order in Lieu of Consent and Request for Hearing (BPM 000310-000313 2U)
BPM 75.	08/09/18	DEQ letter to Ericssons re: Wyoming State Mineral Lease 42804 and WDEQ-LQD Mining Permit 267C (BPM 000314 2U)
BPM 76.	08/09/18	Ronald email to OSLI re: Invalid Wyoming State Mineral Lease 42804 (WSL04) (BPM 000315-000316 2U)
BPM 77.	08/31/18	OSLI letter to Ronald re: State Bentonite Lease #0-42804 (BPM 000317-000318 2U)
BPM 78.	10/05/18	BPM's Response in Opposition to Respondent 2U Ranch, LLC's Motion to Dismiss w/exhibits (BPM 000319-000375 2U)
WARRANTY DEED AND OLD SUHA		
BPM 79.	05/09/39	1939 Quit Claim Deed (BPM 000137-000138 2U)
BPM 80.	06/01/07	Surface Use and Haulage Agreement (BPM 000139-000146 2U)
BPM 81.	Undated	Map of subject lands (BPM 000381 2U)

EXH NO.	DATE	DESCRIPTION
JOLLEY EDSALL		
BPM 82.	09/02/16	Applications for Permit to Appropriate Surface Water (BPM 000147-000154 2U)
BPM 83.	06/22/10	Surface Landowner's Consent, signed by Ronald (BPM 000155 2U)
BPM 84.	07/14/14	Surface Landowner's Consent, signed by Ronald (BPM 000156 2U) with America Colloid
BPM 85.	Undated	JE Reclamation Plan (BPM 000157-000178 2U)
BPM 86.	07/01/14	JE 15 Mine Plan map (BPM 000179 2U)
BPM 87.	07/01/14	JE 15 Reclamation Plan map (BPM 000180 2U)
BPM 88.	01/30/15	JE Mine Plan map (BPM 000181 2U)
BPM 89.	01/11/17	JE Reclamation Plan map (BPM 000182 2U)
BPM 90.		Photographs of BPM's reclamation efforts
TREES		
BPM 91.	08/28/17	4 Horsemen Ranch letter to Neiman Timber Company re: Violations and Disputes (BPM 000183-000185 2U)
BPM 92.	Undated	Marlboro Lights add (BPM 000186 2U)
BPM 93.	06/22/17	Ronald and Nieman Timber Company email re: 4 Horsemen and 2U (BPM 000187 2U)
DISCOVERY		
BPM 94.	11/05/18	Notice of Deposition Duces Tecum of Mr. Ronald Ericsson w/exhibit (BPM 000376-000380 2U)
BPM 95.	2018	Mule Shoe Ranch Grazing Lease Agreement, unsigned (2U-0017 – 0021)
BPM 96.	12/12/18	Transcript of Telephonic Deposition of Ronald Ericsson
BPM 97.	01/27/19	2U's discovery responses to BPM's Errata to Motion to Compel Compliance with Discovery Requests and Deposition Interrogatories
BPM 98.	2018	Unsigned Mule Shoe Ranch Lease Agreement w/attached Jan. 19, 2018 signature page and Jun. 22, 2010 Surface Landowner's Consent
AMENDED PERMIT APPLICATION		
BPM 99.	02/24/16	Hartman letter to Malmberg re: submitting information to amend Permit 267C as required
BPM 100.	03/03/16	Wendtland letter to Hartman re: PT267, Permit Amendment Fee Receipt, BPM LLC, TFN 6 1/197
BPM 101.	04/19/16	Malmberg letter to Hartman re: Round One Completeness Review of BPM's (permit no. 267c) State Lease 42804 Amendment (TFN 6 1/197)
OTHER		
BPM 102.	08/09/18	Wendtland letter to Ericssons re: status of permit amendment
BPM 103.	08/28/18	Wendtland letter to Ericssons re: review of information provided
BPM 104.	Undated	Wendtland letter to Ericssons re: response to October 5, 2018 email re: trespass

EXH NO.	DATE	DESCRIPTION
BPM 105.		Map showing Ericssons' property boundaries, house, and mine location
ADDITIONAL DOCS		
BPM 106.		P267 2.10 Mine Plan Original
BPM 107.		P267 2.11 Rec Plan Original
BPM 108.		2.1 Land Use
BPM 109.		2.2 History of Land Use
BPM 110.		2.3 Cultural
BPM 111.		2.5 OB Map
BPM 112.		2.5 Overburden
BPM 113.		2.6 Hydrology spreadsheet
BPM 114.		2.6 Hydrology
BPM 115.		2.7 Soil Map
BPM 116.		2.7 Soil
BPM 117.		2.8 Veg Map
BPM 118.		2.8 Vegetation
BPM 119.		2.9 Wildlife
BPM 120.		2.10 Mine Map
BPM 121.		2.10 Mine Plan
BPM 122.		2.11 Rec Map
BPM 123.		2.11 Reclamation Plan
BPM 124.		2.12 Wetlands Map
BPM 125.		2.12 Wetlands
BPM 126.	12/13/18	Hartman letter to Malmberg re: Response to Application Revision Review
BPM 127.	2011-2017	Jolley Edsall Acres Disturbed and Reclaimed
BPM 128.	2011-2017	Jolley Edsall Annual Tonnage
BPM 129.		Pictures of Ponds within WSL04 Permit area
BPM 130.		Reservoir map
BPM 131.		Reservoir map 2
BPM 132.		Reservoir Map 3
BPM 133.		Reservoir Map 4
BPM 134.		2.6 Hydrology supporting information
		Any demonstrative exhibits to be prepared during hearing
		Summaries of any exhibits listed above
		Oversized duplicates made of any of the exhibits listed above
		Any exhibit endorsed by Respondent
		Any exhibit necessary for rebuttal or impeachment