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SUPPLEMENTAL REMARKS BY RUPPRECHT & PATASHNICK CO., INC.
SUBMITTED TO MSHA FOR THE PUBLIC RECORD. 10JUNE 2003

Dear Chairman, Committee Members, and Members of the Public:

Subsequent to the verbal comments I gave at the public hearing in Grand Junction, Colorado, on 22 May 2003, I would like to enter some additional written remarks to the public record. I make these comments with respect to the rules being proposed by MSHA concerning plan verification in 30 CFR Parts 70, 75 and 90. In writing this letter, I am acting on the behalf of Rupprecht & Patashnick Co., Inc. (R&P) of Albany, New York.

I address two specific points with the information provided in this document: 1) the anticipated pricing of R&P's Personal Dust Monitor (PDM), and 2) the role of the R&P PDM with respect to the regulations proposed by MSHA for Personal Continuous Dust Monitors (PCDMs).

Topic I: Anticipated Pricing of R&P's Personal Dust Monitor (PDM)

At the Grand Junction hearing on 22 May 2003, I made the following statement concerning R&P's anticipated pricing of the Personal Dust Monitor (PDM): "With widespread implementation of the PDM, we anticipate that the unit price will be significantly less than \$10,000 including support software and the base station used for battery charging and data downloading."

Subsequent to this statement, one of the MSHA committee members asked in jest whether a selling price of \$9,999 would be considered significantly less than \$10,000. I responded in the negative, but was not able to provide any more-specific information concerning our expected pricing structure due to some other project priorities relating to the mining monitor. A number of committee members expressed a strong interest for me to submit additional details concerning the pricing that R&P foresees for the PDM once we had performed a further analysis of our estimated manufacturing costs.

We are dedicated to minimize the selling price of the PDM for end users to promote its widespread use and the additional protection it offers to miners. The paragraphs below describe our general commercialization plans and the volume-based pricing structure that we foresee.

First, we need to address the transition from the prototype instrumentation that R&P has developed under the current NIOSH contract to a commercial unit. My testimony at Grand Junction concerning this topic was as follows: "In order to launch a commercial product, there has to be a market. In this regard, R&P is planning to approach interested

stakeholders following the successful completion of the NIOSH underground mine tests to solicit the purchase of initial quantities of the PDM by each of a number of parties. 'i'his can serve to acquaint early adopters **with the new measurement** technology through first-hand experience, and would provide R&P with the clear signal that the underlying interest exists for the commercialization of the innovation."

To be more specific about the above statement, R&P seeks to raise approximately \$360,000 in seed funding by selling at least 25 commercial PDM units at a price of \$14,500 each. R&P intends to use this support to finalize the design of the monitor based upon extensive input from industry stakeholders, invest in new manufacturing processes for key components such as the casing and electronics, and to obtain the certification of the instrument from the Secretary of Labor. It is our desire to launch this transition toward commercialization as soon as the underground mining tests being initiated by NIOSH in early June 2003 are successfully completed.

The price at which the PDM will be available as a commercial product will be affected by the quantities sold, the cost of distribution channels, and the ability to optimize the manufacturing process. The pricing set forth later in this document is dependent upon the achievement of the following goals:

- Savings can be realized by R&P through parts purchases in higher volumes.
- Distribution costs can be virtually eliminated, resulting in savings to end users, if purchasing of the PDM takes place in a centralized fashion. This could take the form of orders being placed with R&P on a company-by-company basis, through industry associations or through contracts with government agencies.
- We can streamline our manufacturing process, with savings passed on to customers, through predictability of demand and with a smooth manufacturing throughput. In this regard, we would foresee the pooling of orders to form annual 12-month production plans that would permit a relatively constant production rate.

Once R&P completes the transitional phase to commercialization using the seed funding described above, we foresee a decrease in the selling price of the PDM with increasing volumes. Contingent upon the achievement of the above goals concerning distribution **expenses and** the optimization of the manufacturing process through manufacturing planning, R&P anticipates the following selling prices for the PDM as the indicated annual manufacturing volumes increase:

- 1-49 units: \$12,800 each
- 50-149 units: \$11,300 each
- 150-499 units: \$9,800 each
- 500-849 units: \$9,000 each
- 850 units: \$7,800 each

R&P plans to work closely with all affected stakeholders to streamline the design, approval, and manufacturing processes, as well as the coordination of orders to achieve the lowest possible selling price of the PDM.

Topic 2: Role of the R&P PDM with Respect to PCDM Regulations Proposed by MSHA

At the public hearing in Grand Junction on 22 May 2003, a number of panelists questioned me concerning the proprietary nature of the technology used in R&P's Personal Dust Monitor (PDM). I believe that an underlying concern may exist that other companies may not be able to enter the market for personal dust monitors in the future, and that R&P's current PDM offering would put the company in a market-controlling position for the foreseeable future. The following comments address these points.

First, the PDM is *a* PCDM (personal continuous dust monitor)—it is *not the* PCDM. It is important to differentiate between the R&P PDM and the MSHA-defined PCDM classification. The rules proposed by MSHA define a class of instruments called PCDMs, and provide a path for other monitors other than R&P's PDM to be **designated** as an approved personal monitor by the Secretary of Labor.

The institution of patents and trademarks in every industrialized country recognizes the fact that the protection of intellectual property can be a strong driver for the development of new innovative techniques. But innovation, patents and trademarks alone do not guarantee that a given technology will succeed. R&P is globally recognized as a company that not only develops and commercializes new technologies, but as an organization that successfully offers innovations in a form that is attractive to end users. This involves much more than product design, performance and price, and is also a function of the company's commitment to meeting end user needs and to world-class product support.

We were the first company in our industry to attain the ISO 9001 certification, and have already received the latest designation called ISO 9001:2000. The high market shares enjoyed by many of our products have been achieved through individual decisions made by end users around the world. As with other endeavors in the past, R&P is committed to make the commercialization of the PDM a success for all parties involved, and we are pleased to be involved in an effort that will lead to a significant improvement in the monitoring of workplace dust exposure in underground coal mines.

Please feel free to contact me directly should you desire any clarification of the points made in this document, or concerning the PDM in general.

Sincerely,

Erich Rupprecht
Director of Business Development