

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Croell Redi-Mix, Inc., a company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation (NOV) Docket Number 4387-08, dated November 5, 2008. The site of these violations is located in Section 25, Township 52 North, Range 62 West.

W.S. §35-11-901(a)(ii) authorizes the WDEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Croell Redi-Mix, Inc., (Croell) and the WDEQ/LQD hereby stipulate and agree as follows:

1. The WDEQ, pursuant to W.S. §35-11-104, is a department in the executive branch of the state government of Wyoming and is principally situated in Cheyenne, Wyoming. DEQ is the agency with the responsibility for administering the Wyoming Environmental Quality Act including all provisions of the WDEQ/LQD Rules & Regulations.
2. Croell is the approved applicant and operator of a limestone quarry mining operation located in Crook County, Wyoming, in Section 25, Township 52 North, Range 62 West. Limited Mining Operation (LMO) No. 1396ET was issued to Croell on June 29, 2007. As part of its operation, Croell mines mineral from this site and distributes or sells the mineral mined for commercial use.
3. Conducting Limited Mining Operations in the State of Wyoming that disturb lands in excess of 10 acres is a violation of W. S. §35-11-401(e)(vi).
4. Not adequately salvaging and segregating all topsoil prior to affecting areas by mining is a violation of the Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 2(c)(I)(A).
5. Contracting an operator to mine without submitting the change of operation for approval by the LQD is a violation of Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 6(b).
6. Croell agrees to pay a total penalty of Seven Thousand Dollars (\$7,000.00), for the violations stated in Items 3 - 5 above, as a partial settlement for the resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Croell shall pay \$7,000.00 directly to the WDEQ/LQD. Payment is due and payable within thirty (30) days of full execution of this Settlement Agreement. Payment to WDEQ/LQD shall be by check made payable to the Wyoming Department of Environmental Quality/Land Quality Division and shall be sent to: Donald R. McKenzie, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002.
7. Croell shall post an additional reclamation bond in the amount of Seven Thousand Dollars (\$7,000.00) by December 31, 2008, to cover the additional 7.0 acres of disturbance not currently bonded under LMO 1396ET.
8. Croell agrees to immediately halt all mining associated activities at LMO 1396ET that will extend the area of disturbance beyond the approved ten acre limit. Croell will be allowed to remove currently blasted and stockpiled products for further processing and sale. Croell will not expand the area of disturbance beyond the approved ten acre limit until the Regular Mine Permit submitted to the LQD on December 9, 2008 is approved.
9. Croell will adequately salvage and segregate all topsoil from areas affected by mining activities by December 31, 2008.
10. Croell agrees to receive LQD approval before contracting another company to operate to mine on their behalf under 1396ET.
11. This signed Settlement Agreement and payment by Croell as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Croell, based on the violations alleged in Notice of Violation Docket No. 4387-08. Contingent upon Croell,



Croell Redi-Mix, Inc.
Settlement Agreement
NOV Docket No. 4387-08

compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Croell, for these particular violations cited in this Settlement Agreement. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 4387-08.

- 12. Croell waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described in Notice of Violation Docket No. 4387-08.
- 13. Nothing in this agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, Order and/or pursuing additional penalties, should Croell violate the Wyoming Environmental Quality Act or applicable rules and regulations in the future.
- 14. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
- 15. Notwithstanding any other language in this Settlement Agreement, the State of Wyoming and WDEQ do not waive sovereign immunity by entering into this Settlement Agreement with Croell and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
- 16. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
- 17. **This Settlement Agreement is binding upon Croell, its successors and assigns, and upon the WDEQ.**
- 18. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: Croell Redi-Mix, Inc.

Signed: Brian Marchant

Date: 12-15-08

Printed: Brian Marchant

Title: General Mgr Croell

FOR: The Wyoming Department of Environmental Quality

John V. Corra
John V. Corra, Director
WDEQ

Date: 12-18-08

Donald R. McKenzie
Donald R. McKenzie, Administrator
WDEQ/Land Quality Division

Date: 12-18-08

JVC/DM/MR

cc: Mark Rogaczewski, WDEQ/LQD, District III
Docket Number 4387-08

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)	
VIOLATION ISSUED TO)	
ROGER CROELL)	DOCKET NO. 4551-09
P. O. BOX 1352)	
SUNDANCE, WY 82729)	
LIMITED MINING OPERATION (LMO) NO. 1212ET)	

NOTICE

NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The violations associated with this Limited Mining Operation were documented by Monte Buchanan, Land Quality Division, District I during the Annual Inspection conducted on August 11, 2009. This LMO is located in Platte County.
3. The operator/permittee failed to adequately save and protect topsoil during mining operations conducted under 1212ET. This is a violation of the Environmental Quality WDEQ/LQD Noncoal Rules and Regulations, Chapter 10, Section 4(b), "All topsoil from affected lands shall be saved and stockpiled in such a manner to minimize wind and water erosion."
4. The aforementioned violations have not been corrected or remedied, nor has the operator/licensee provided any information concerning the violation.
5. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THE NOTICE OF VIOLATION (NOV) shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 27th day of August, 2009


John V. Corra
Director
Department of Environmental Quality


Donald R. McKenzie
Administrator
Land Quality Division

PLEASE DIRECT ALL INQUIRIES regarding this Notice of Violation to Mr. Lowell Spackman, District I Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, Herschler Building, 3rd W, 122 West 25th Street, Cheyenne, WY 82002

CERTIFIED MAIL, RETURN RECEIPT REQUESTED #7008 1140 0004 2414 2060
DOCKET NO. 4551-09
LIMITED MINING OPERATION (LMO) NO. 1212ET

cc: Lowell Spackman, LQD, District I
LMO 1212ET, NOV File
Cheyenne NOV File