

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

FILED

DEC 17 2009

*Jim Ruby, Executive Secretary
Environmental Quality Council*

**IN THE MATTER OF THE OBJECTION
TO THE MINE PERMIT OF
Croell Redi-Mix, Inc., TFN 5 6/072**

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Docket No. 09-4806

PRE-HEARING CONFERENCE ORDER

THIS MATTER came before the Environmental Quality Council (Council) on December 16, 2009, for an informal pre-hearing conference. Presiding Officer, F. David Searle participated telephonically. Also present at the conference were Jim Ruby, Executive Secretary of EQC, and Joe Girardin, Paralegal for the EQC. The Objectors, Judith Bush, Paul Tomer, Judy Hamm and Les Turgeon appeared telephonically on their own behalf. The Department of Environmental Quality, Air Quality Division (DEQ) appeared by and through Senior Assistant Attorney General, John Burbridge. Also present on behalf of the DEQ were Mark Rogaczewski and Glen Mooney. The Permittee appeared through its representative Roger Croell. Also present for the permittee was Julie Ewing and Bryan Marchant. This Pre-hearing Conference Order arises out of the December 16, 2009 pre-hearing conference.

1. **MOTIONS:** The Motion to Continue filed by Ms. Bush is denied because all of the parties would not stipulate to the continuation. Mr. Croell representing the Permittee objected to the continuance.
2. **ISSUES:** The following issues were identified by the Objectors in their objections to the issuance of the permit as the issues involved in this proceeding:

CLAIM I – A part of the proposed operation, reclamation plan is contrary to the law or policy of this state or the United States.

CLAIM II – The proposed operation constitutes a public nuisance or endangers the public health and safety.

CLAIM III – The application is incomplete.

CLAIM IV – The proposed mining operation will cause pollution of any waters in violation of the laws of this state or the federal government.

CLAIM V – The applicant has not had any other permit or license issued hereunder revoked, or any bond posted to comply with the act forfeited.

3. WITNESSES: The parties identified the following witnesses who will be in attendance at the hearing and available to testify:

- (a) DEQ will call as witnesses, Glen Mooney. They may call Mark Rogaczewski and Doug Emmy.
- (b) Judith Bush will call as a witness Bob Gerkin, Margaret Turbivile, Dewey Turbiville.
- (c) Paul Tomer will call as a witness himself.
- (d) Les Turgeon will call as a witness himself.
- (e) Judy Hamm will call as a witness herself.
- (f) Roger Croell will call as a witness Roger Croell, Dennis McGirr. He may call Julie Ewing, Brian Marchant and Dustin Nuzum.

4. EXHIBITS: DEQ	Croell Application
Mr. Tomer	Copy of mining permit on display at Crook County Courthouse; and Group letter signed by 23 neighbors
Mr. Bush	Documents sent on Dec. 16, 2009
Ms. Hamm	Pictures; Letter from Finley on Dust Control
Mr. Croell	Maps, prevailing winds, proposed permit
Mr. Turgeon	Letters/Emails from DEQ

5. ORDER OF PROCEEDINGS. Each party will have five (5) minutes for opening statements. The order of proceeding for opening and closing statements will be as follows:

- 1. Judith Bush
- 2. Paul Tomer
- 3. Les Turgeon
- 4. Judy Hamm
- 5. DEQ
- 6. Permittee

The following opening statements, the order for the presentation of evidence shall be as follows:

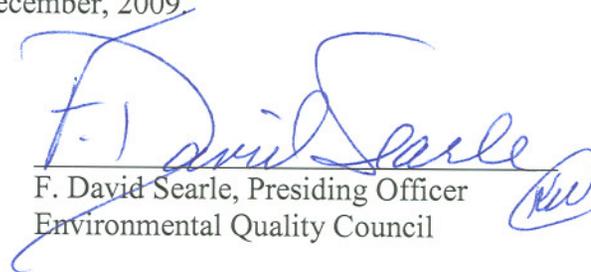
- 1. DEQ (background information regarding the permit)

2. Judith Bush
3. Paul Tomer
4. Les Turgeon
5. Judy Hamm
6. Permittee

The parties will be provided five (5) minutes for closing statements and the Objectors will be permitted 5 minutes for rebuttal statement.

6. DATE, TIME AND LOCATION OF HEARING. The contested case hearing is scheduled for 1/2 day beginning December 21, 2009 at 1:00 a.m. The hearing location remains set in the Campbell County Library, 2101 South 4-J Road, Wyoming Room, Gillette, Wyoming.

SO ORDERED this 17th day of December, 2009.


F. David Searle, Presiding Officer
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 17th day of December, 2009, I served a copy of the foregoing PRE-HEARING CONFERENCE ORDER by electronic mail to the following:

John Burbridge
Sr. Asst. Attorney General
jburbl@state.wy.us

John Corra
Director, DEQ
jcorra@wyo.gov

Don McKenzie
Land Quality Administrator
dmcken@wyo.gov

also by depositing the same in the United States mail addressed to:

Mr. Roger Croell
Croell Redi-Mix, Inc.
P.O. Box 1352
Sundance, WY 82729

Gary & Barbara Johnson
300 Moskee Road
Sundance, WY 82729

Les and Karen Turgeon
725 Rifle Pit Road
Beulah, WY 82712

Jace Bo & Monica Waltman
439 Fuller Road
Sundance, WY 82729

Douglas & Phyllis Watson
670 Moskee Road
Sundance, WY 82729

Joan Kokesh
327 Moskee Road
Sundance, WY 82729

Ila Leger
555 Fuller Road
Sundance, WY 82729

Joseph Pawlik
350 Moskee Road
Sundance, WY 82729

Jack & Terri McGee
P.O. Box 1430
Sundance, WY 82729

Mark Thompson
251 Moskee Rd.
Sundance, WY 82729

Scott & Julie Wheeler
360 Moskee Road
Sundance, WY 82729

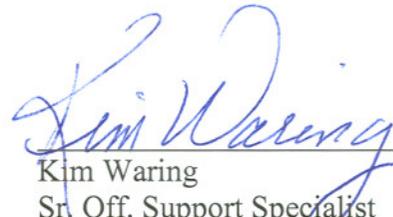
Cindy Lambert
222 Canyon Road
Sundance, WY 82729

Paul Tomer
107 JX-Lane
Sundance, WY 82729

Levi Delp
525 Fuller Road
Sundance, WY 82729

Richard & Judith Hamm
9298 Mique Circle
Port Charlotte, FL 33981

Judith Bush
2313 County Rd. 64
Carrying Place ON Canada KOK 1L0



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