

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

APR 28 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE OBJECTION )  
TO THE MINE PERMIT OF ) DOCKET NO. 09-4806  
Croell Redi-Mix, Inc., TFN 5 6/072 )

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**OBJECTION TO PETITION FOR REHEARING**

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COMES NOW The Department of Environmental Quality, Land Quality Division (“Division”), through the Office of the Attorney General, hereby submits its Objection to Petition for Rehearing in this matter and states to the Environmental Quality Council (“EQC”) the following:

1. “Any petition for rehearing filed under this section must be confined to new questions raised by the decision and upon which the petitioner had no opportunity to argue before the Council.” (Dep’t of Env’tl. Quality, Procedural R. and Regulation, Ch. 4, § 1(b)).
2. The Petition raised issues of overburden, depth and thickness of deposit. Evidence regarding overburden, depth and thickness of deposit was presented to the EQC at the contested case hearing. The EQC’s Findings of Fact, Conclusions of Law and Order in this matter shows as follows:

Paragraph 21, Ultimate Fact. “Croell's application includes a general description of the land together with its vegetative cover, the annual rainfall, the general directions and average velocities of the winds, indigenous wildlife, its past and present uses, its present surface waters, adjudicated water rights and their

immediate drainage areas and uses, the nature and depth of the overburden, topsoil, subsoil mineral seams and other deposits and any subsurface waters known to exist above the deepest projected depth of the proposed mining operation. (Tr. at 40 and Ex. 11, Appendices D-1 - Land Use, D-4 - Climatology, D-5 - Topography, Geology, and Overburden, D-6 - Hydrology, D-7 - Premining Soils Assessment, D-8 - Premining Vegetation Assessment, D-9 - Wildlife, D10 - Wetlands Inventory and Permanent Mitigation Plan, E-1 - Oil and Gas Within One-half Mile of the Permit Boundary, E-2 - Valid Groundwater Rights Within Three Miles of the Permit Area, E-3 - Surface Water Rights Within and Adjacent to the Permit Boundary, and Map E-1).”

3. The Petition raises issues regarding groundwater. Evidence regarding groundwater and water containment was presented at the contested case hearing. The Findings of Fact, Conclusions of Law and Order in this matter shows as follows:

Paragraph 12, Ultimate Fact. “Objectors asserted that water runoff from Croell's proposed mining site would pollute surrounding underground and surface waters, specifically Sand Draw Creek and Sundance Creek. (Tr. at 201-03). Croell's application shows that hydrology concerns have been addressed and that berms and other drainage control methods will be used to prevent runoff from leaving the boundary of the permit area. Runoff within the mining area will flow into the pit and not off the site. (Tr. at 259-6; Ex. 11, MP 2.3, 4.7 and 4.8).”

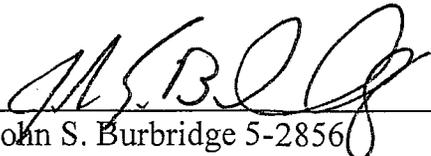
Paragraph 26, Ultimate Fact. “The evidence showed that Croell' s proposed mining operation will not cause pollution of any waters of the state in violation of the laws of the state of Wyoming. (Tr. at 40, Ex. 11, Appendix D-6 -Hydrology, and Ex. MP 4.7-4.8).”

4. The Petition fails to raise any new questions raised by the decision that have not already been heard by the EQC at the contested case hearing held on December 21, 2009.

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WHEREFORE the Department of Environmental Quality, Land Quality Division respectfully request that the Petition for Rehearing in this matter be DENIED.

DATED this 28<sup>th</sup> day of April, 2010.



John S. Burbridge 5-2856  
Senior Assistant Attorney General  
123 Capitol Building  
Cheyenne, Wyoming 82001  
307-777-7823

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Objection to Petition for Rehearing was served by placing the same in the United States mail, postage prepaid, this 28<sup>th</sup> day of April, 2010, to the following:

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

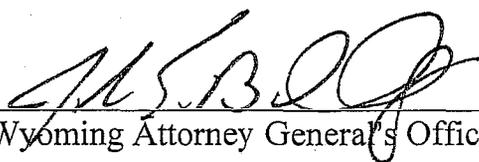
Davis & Cannon, LLP  
Kim D. Cannon  
Clint A. Langer  
40 South main Street  
PO Box 728  
Sheridan, Wyoming 82801

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

Paul Tomer  
107 JX-Lane  
Sundance, WY 82729

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

Judith Bush  
2313 County Rd. 64  
Carrying Place ON Canada KOKILO



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Wyoming Attorney General's Office