

BY FAX (307) 777 - 6134

To: Jim Ruby Exec Sec. EQC Fax (307) 777-6134

From: Judith Bush
2313 County Rd 64
Carrying Place ON
Canada K0K 1L0tel / fax 613-392-2313
please phone before faxing

date: December 17, 2009

cc: Dave Freudenthal Governor of Wyoming Fax (307) 632 - 7434
John Burbridge Sr. Asst. Attorney General Fax (307) 777 - 3542
Roger Croell Croell Redi-Mix Fax (307) 283- 1450

Re: Croell Redi-Mix Application to WDEQ LQD to expand the Roger's Pit from a 10 acre limestone mining and crushing LMO (1396 ET) to a Regular Mining Permit encompassing 600 + acres

In the Matter of the Objection To the Mine Permit of Croell Redi-Mix, Inc.
TFN 5 6/072 Docket No. 09-4806Pre-hearing conference call yesterday, Dec 16, 2009 - Refusal to Postpone hearing

no pages 4 including attachment

encl first page of the EQC Notice of Hearing and Order dated December 8, 2009, and
first page of the EQC Amended Notice and Order dated December 9, 2009

Dear Mr. Ruby,

I wish to officially document my strong objection to the decision of the EQC yesterday to proceed with this hearing on Dec 21, 2009 in the absence of timely public notice of this hearing being published by the EQC (as it was both legally obligated to do and had ample time to do), and for other reasons contained herein.

I would also like to correct an error in fact made by the EQC during the pre-hearing telephone conference yesterday. It was said that Notice of the Hearing was mailed to objectors on December 8, 2009. In fact, the notice which was mailed on December 8, 2009 contained incorrect information. The amended Notice was mailed by the EQC on December 9, 2009.

I pointed out this error at the time it was made, but was asked not to speak. I am not sure that my correction will be contained in the final transcript.

The scheduling of deadlines leading up to the December 21, 2009 hearing is as follows:

Mon, Dec 7, 2009	deadline for comments to Land Use Committee
Tues, Dec 8, 2009	Notice containing incorrect information mailed registered mail
Wed, Dec 9, 2009	Amended Notice mailed out by EQC mailed registered mail
Mon, Dec 14, 2009	noon deadline applying to all parties to deliver all material relating to hearing to all parties (deadline stated in as stated in Notice)
Wed, Dec 16, 2009	pre-hearing telephone conference
	* <u>Order</u> states failure to participate <u>will</u> result in dismissal from the case
	* <u>Notice</u> states that failure to participate <u>may</u> result in dismissal from the case
Thurs Dec 17, 2009	first public notice goes into Sundance Times
Sun Dec 20, 2009	2nd notice goes into Casper newspaper (possibly published Saturday Dec 19, 2009 as well - not sure)
Mon, Dec 21, 2009	hearing to take place at 1:00 pm in library in Gillette

Judy Hamm stated at the pre-hearing conference that she only received the copy of her notice on Wednesday, December 16, 2009, the day of the pre-hearing telephone conference. (probably the notice mailed Dec 8, 2009).

FILED

DEC 17 2009

Jim Ruby, Executive Secretary
Environmental Quality Council

I have not to date received either the Notice regarding this hearing mailed on December 8, 2009 or the Amended Notice of this hearing, mailed on December 9, 2009

It was also stated at the pre-hearing conference that the EQC did the best it could to provide timely notice, but that there had not been enough time. This was inaccurate. Even taking into account the December 21, 2009 hearing date, the EQC had adequate time to publish public notice for two consecutive weeks prior to the hearing taking place. It simply failed to do so, and apparently had no intention of doing so until I pointed out that no public notice had been given.

The EQC maintained that it was powerless to change the date of the hearing unless all parties consented. Mr Croell (Croell Redi-Mix) refused to consent to a postponement of the hearing.

According to its own regulations, the EQC does have the power to make adjustments when following its regulations creates unreasonable and or unfeasible demands (such as the date when a hearing is scheduled).

Apparently the EQC chose to use this power (inapplicable, because there were no circumstances which made timely public notice impossible) to cover its own error in not publishing notice in a timely fashion. It refused to use the same power (claiming that it did not have the power unless Mr. Croell agreed) to alleviate the unreasonable and impossible demands being placed upon those objecting to this application by postponing the hearing.

note The DEQ was asked, and stated that it amenable to a postponement of the hearing
I was asked, and stated that I was amenable to a postponement of the hearing
Mr. Croell was asked, and stated that he was not amenable to a postponement
Other objectors were not asked for their opinion in this matter.

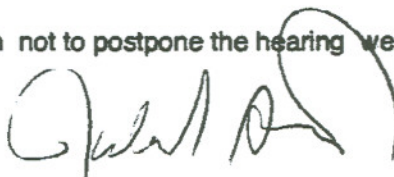
As I stated at the pre-hearing telephone conference, I have previously written to the EQC citing statutes relevant to the postponement of this hearing. My December 15, 2009 letter to you cites the following statutes relating to the matter of postponing the hearing date:

- * The Environmental Quality Act 35-11-406 (k) requirement of EQC to provide for public notice for 2 consecutive weeks immediately prior to hearing
- * The General Rules of Practice and Procedure, Section 12 (a) power of EQC to bend rules when enforcing them results in unreasonable or impossible situations
- * Chapter 2 (Rules of Practice and Procedure Applicable to Hearings in Contested Cases), Section (a) of the Rules of Practice and Procedures regarding possibility of intervener status at hearing to be requested up to time of hearing.

I also pointed out during the pre-hearing telephone conference yesterday, that at the time when Public Notice of the Application was advertised the application was not complete. At the request, I believe of Attorney General Burbridge, I later explained that at the time the application was advertised (beginning on October 15, 2009) the application contained information provided by Croell Redi-Mix which was false, stating that the old public road (which crossed our land without our consent) was no longer being used, and that a new access road was being used. (At that time the road through our property was still being used with out our consent, and the new road was far from ready to use). I believe that accurate information regarding a completed access road is necessary for an application to be complete. I pointed out that the timing of the hearing was a direct (and predictable) result of publishing notice of the application beginning on October 15, 2009.

No discussion or questions regarding the EQC decision not to postpone the hearing were permitted during the pre-hearing telephone conference yesterday.

Yours truly,



Judith Bush, Managing Partner, Bush Ranches

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

DEC 08 2009

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)

NOTICE OF HEARING AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The Environmental Quality Council (the Council) will conduct a hearing on December 21, 2009 at the Campbell County Library, 2101 South 4-J Road, Gillette, Wyoming commencing at 1:00 P.M. This hearing will be conducted as a contested case hearing under the Wyoming Administrative Procedure Act. F. David Searle, a member of the Council will serve as Presiding Officer.
2. This hearing is held pursuant to Sections 35-11-101 through 35-11-1904, W.S. 2008, as amended, regulations promulgated there under, and the Department of Environmental Quality Rules of Practice and Procedure.
3. Croell Redi-Mix, Inc., (Croell) applied for a mining permit from the Department of Environmental Quality (DEQ).
4. Croell and the DEQ contend the permit application is complete and should be granted.
5. The Protestants objected to Croell's mining permit. The particular statutes and rules upon which the Protestants base their objections have not been specified at this time.
6. This matter was scheduled in accordance with the time limitations set forth in Wyo. Stat. § 35-11-406(k). The schedule can only be adjusted at the request and the filing of a joint stipulation and motion for continuance.

NOTICE IS FURTHER GIVEN THAT:

1. A prehearing conference in this matter will be conducted on December 16, 2009 at 2:30 p.m. via telephone conference call. The parties shall inform the EQC office of a telephone number where they can be reached for the prehearing on or before December 14, 2009. Failure to appear at the prehearing conference may result in dismissal from this case.
2. The purpose of the prehearing conference is:

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

FILED

DEC 09 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) Docket No. 09-4806**

AMENDED NOTICE OF HEARING AND ORDER

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