

**BY FAX****EQC Docket 09-4806****LQD TFN 5 6/072**

To: Members of EQC  
& Jim Ruby, Exec-Sec EQC 307-777-6134

cc: John Burbridge Attorney, DEQ LQD 307-777-3542

cc: Kim Cannon Davis and Cannon LLP 307-672-8955

From: Judith Bush 307-283-2835

encl copy of page 12 of my May 12, 2010 faxed response to Croell Redi-Mix's objection to my April 1, 2010 Petition for Rehearing

date: May 18, 2010 no pages 3

**FILED**

MAY 19 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

---

### Petition to Correct the Record of EQC Docket 09-4806

---

Dear Members of Council and Mr. Ruby

I checked the EQC website regarding Docket 09-4806 on Sunday, May 16, 2010. My (20 page) May 12, 2010 Response to the objections of Croell Redi-Mix to my April 1 Petition for Rehearing had been posted on the EQC website of Docket 09-4806. I printed out a copy of this document from the website, and have since noticed that page 12 of my Response was not included in the website posting.

Is this an error affecting only the posting of my May 12, 2010 response on the EQC website concerning Docket 09-4806? The index page listing EQC dockets has recently added a disclaimer stating that posted documents are not necessarily a part of the record and that, additionally, what is contained on these web pages does not necessarily reflect the complete record. Does the EQC have the discretion to post incomplete or edited versions of documents submitted to it on its web pages? It is clear that the EQC did receive all 20 pages of my May 12, 2010 faxed transmission.

Les Turgeon, Karen Turgeon and I (advocates to reopen the December 21, 2009 public hearing regarding Docket 09-4806) learned at the May 14, 2010 meeting that Council had decided to limit our presentations to new matters raised in my April 1, 2010 Petition for Rehearing.

The purpose of of the EQC May 14, 2010 proceedings regarding EQC Docket 09-4806 was to cite cause (and / or lack of cause) for the reopening of the December 21, 2009 public hearing regarding the Croell Redi-Mix Application. Did council members so limit our presentations on May 14, 2010 after having read and in full awareness of the matters documented on page 12 of my May 12, 2010 Response to Council ( a copy of which is attached hereto) ?

If page 12 of my May 12, 2010 response to Croell Redi-Mix's objection to my April 1, 2010 Petition for Rehearing has been omitted not only from the EQC website concerning Docket 09-4806, but from the official record of Docket 09-4806 as well, I am hereby petitioning for the immediate correction of this error and omission.

Yours truly,



Judith Bush



**Kim Cannon states that my Petition for Rehearing makes no reference to the March 12 Findings of Fact, Conclusions of Law and Order.**

The EQC requested Mr. Burbridge (attorney for the DEQ LOD in this matter) to draft the Findings of Fact, Conclusions of Law and Order. I believe that this constitutes a conflict of interest on the part of Mr. Burbridge.

The EQC also instructed Mr. Burbridge to solicit comments from the parties regarding two proposed versions of the Findings which preceded the March 12 Findings. I commented extensively on those proposed versions, and my comments are a matter of record.<sup>3</sup>

My Petition for Rehearing contains the following statement alluding to those comments.

" I believe that the process leading up to and including the hearing of December 21, 2009 was deeply flawed. I am assuming from the similarity of the Findings of Fact, Conclusions of Law and Order approved by Council on March 12, 2010 to the Proposed Findings of Fact, Conclusions of Law and Order which objectors were invited to comment upon prior to Council's decision, that Council is not movable on these issues and that all ad ministerial remedies have been exhausted. Please let me know if this is not the case. "

I consider my comments of March 3, 2010 relevant to the March 12, 2010 Finding of Fact, Conclusions of Law and Order. They are a matter of record.<sup>4</sup> I would be pleased for any and all matters included in my March 3, 2010 comments regarding the proposed findings to be included in a reopening of the hearing into this matter.

Please note that in my opinion, probably the most egregious error of the December 21, 2009 public hearing was Council's refusal to hear my testimony explaining my exhibits (which were entered into the record without objection, and which had been faxed to the EQC, to Mr. Burbridge and to Croell Redi-Mix on Friday, December 18, 2009) and to dismiss such testimony as irrelevant before it had been heard.

---

<sup>3</sup> Feb 11 /10 Proposed Findings of Fact, Conclusions of Law and Order; and Feb 19 /10 Amended Proposed Findings of Fact, Conclusions of Law and Order

<sup>4</sup> The EQC also asked Mr. Burbridge to ask all parties to submit comments to the Proposed Findings. I sent my comments to the attention of Mr. Burbridge on March 3, 2010. (Mr. Burbridge had instructed to sent the comments to the EQC by March 3, 2010. I faxed my comments to Mr. Burbridge instead. Mr. Burbridge did not get my comments to the EQC until the following day, March 4, 2010. Mr. Ruby accepted my comments into the record, although the EQC date for receiving them is noted as March 4, 2010, one day past the March 3 deadline for delivering comments. While I should have faxed the comments directly to the EQC, Mr. Burbridge was clearing acting as the attorney for the EQC in drafting the Findings. page 12

**CERTIFICATE OF SERVICE**

I, Judith Bush, do hereby certify that a true and correct copy of the foregoing Petition to Correct the Record of EQC Docket 09-4806 was served via facimile and by regular mail as follows, this 18<sup>th</sup> day of May, 2010.

Kim D. Cannon  
and Clint A. Langer  
Davis & Cannon  
40 South Main Street  
P.O. Box 728  
Sheridan, Wyoming 82801

(x) by Facsimile (307-672-8955)  
(x) by regular mail

John Burbridge (*Att for DEQ LQD at EQC hearing*)  
Sr. Asst. Attorney General  
Attorney General's Office  
123 Capitol Avenue  
Cheyenne, Wyoming 82002

(x) by Facsimile (307) 777-3542  
(x) by regular mail

Environmental Quality Council  
Attn Jim Ruby, Executive Secretary  
122 W. 25th, Herschler Building  
Room 1714  
Cheyenne, Wyoming 82002

(x) by facsimile (307) 777-6134  
(x) by regular mail

