

By Fax 307-777-5616

**To David Finley, Director AQD Wyoming DEQ
WDEQ Air Quality Division, Cheyenne, Wyoming**

**From Judith Bush tel / fax 613-392-2313
2313 County Rd 64 please phone before faxing
Carrying Place, ON, Canada KOK 1L0**

**Re Air Quality Division Hearing regarding current Croell Redi-Mix
Application regarding the expansion of the Rogers Pit
located east of Sundance, in Crook County, Wyoming**

Date December 16, 2009

**cc. Dave Freudenthal Governor of Wyo 307-632-3909
Don McKenzie Dir Land Quality DEQ 307-777-5864
✓ Jim Ruby Exec Sec EQC 307-777-6134
Gina Johnson Administrative Specialist, DEQ Air Quality 307 - 777 - 7393
Administrative Asst to Admin, DEQ AQD 307 - 777 - 7391**

No pages 16

**encl copy of my letter Gina Johnson dated December 4, 2009
copy of my letter to David Finley, dated Dec 11, 2009
copy of unsigned letter from AQD to me, dated Dec 11, 2009**

**DEQ Notice of Violation - Croell Redi-Mix December 27, 2008
DEQ Notice of Violation - Croell Redi-Mix November 5, 2008
DEQ Notice of Violation - Croell Redi-Mix August 27, 2009**

Dear Mr. Finley,

This letter is in response to my fax to you dated December 11, 2009 (with a copy to your Administrative Assistant, Gina Johnson), and to the reply I received, also on December 11, 2009. Although the reply I received is not signed, I am assuming that it came from you, since my letter December 11, 2009 letter was directed to you.

Regarding the statement in the attached letter dated December 11, 2009, that my Fax dated December 4, 2009 was not received:

I have checked my records. My fax of December 4, 2009 was not directed to you. It was directed to Administrative Specialist Gina Johnson, who had been kind enough to fax me some information I had requested. I had also requested information on total production (of crushed limerock, not dust) produced at the Rogers Pit since start-up to date, which was not included in the information I was sent. I faxed Gina Johnson back directly (my fax dated December 4, 2009), to thank her for information received, and to say that I had not received any information regarding actual crushed limerock production from the Rogers Pit.



My records show that my December 4, 2009 letter was faxed to 307-777-5616 twice, because after sending it the first fax, I realized that I had forgotten to sign the letter, so I signed it and faxed it again. The unsigned letter was faxed at 8:17 pm my time (6:17 pm your time). The signed letter was refaxed at 8:18 pm my time (6:18 pm your time).

307-777-5616 is the correct number to reach your department in Cheyenne.

When I did not receive a reply by December 11, 2009, I faxed you directly, because I thought that your permission to release this information might be required. I copied Gina Johnson on that fax.

Is it correct, as my (unsigned) December 11, 2009 reply from Air Quality states, that the Air Quality Division does not request information regarding annual production of operators to whom it has issued air quality permits?

As nearly as I can tell, the Air Quality Division of the DEQ grants Air Quality permits based on the quantity of dust / air pollutants the proposed operation is anticipated to produce. These calculations are in turn produced by plugging the estimated yearly production supplied by an applicants seeking Air Quality permits into various formulae.

In other words, the DEQ AQD depends on the estimated yearly production which is supplied by the applicant (before production has begun) to calculate the amount of air pollution / dust the operation will produce, and if this extrapolated figure for air pollution falls within the DEQ AQD limits, then a permit is granted.

Am I understanding correctly that Air Quality does not ask the operators operating under Air Quality Permits to supply real annual production figures once an operation is up and running?

Does Air Quality assume year after year that yearly production remains at the level that the operator said they thought they would be producing when the permit was granted (and before the actual start-up of the operation?)

Is there a cut off amount of yearly production for a single source of air pollution regardless of what original estimate for yearly production is supplied to the DEQ Air Quality Division in order to get a permit? If so, what is that amount?

The circumstances which prompt me to ask this question are the following:

- * The original Croell Redi-Mx Applications to both Land Quality Division and Air Quality Division of the DEQ were filed in 2006. Permits from both LQD and AQD were granted to Croell Redi-Mix in early 2007.

Croell Redi-Mix had obtained permits both from Land Quality and Air Quality to begin a limestone mining and crushing operation at the Rogers pit - on a site limited to a maximum of 10 acres).

In its applications for these permits (both to Land Quality and Air Quality), Croell Redi-Mix estimated its yearly production at 100,000 tons per year.

(LQD LMO Permit 1396 ET and AQD Permit 4526)

- * Bruening Rock Products was granted an Air Quality permit in February of 2008 from the DEQ AQD to operate a crusher (with its first location being in the Rogers Pit). The crusher had a capacity of 1,050,000 tons per year.

The yearly capacity of the Bruening Rock Products crusher (1,050,000 tons per year) was plugged into the various AQD formulae to calculate emissions. and an AQD permit was approved for this crusher (with its first location to be in the Rogers Pit).

- * Croell Redi-Mix productions for the Rogers Pit given by Roger Croell at the December 14, 2009 AQD hearing regarding the Croell Redi-Mix application essentially to enlarge the 10 acre limited mining operation to a 600 + acre Regular Mining Operation were as follows:

2007	12,000	tons	
2008	86,000	tons	Bruening Rock Products included here?
2009	140,000	tons	Bruening Rock Products (no LMO permit) and / or Frost Rock Products (LMO permit 1461) included here?

- * Yearly production from Croell Red--Mix to reports to DEQ Land Quality Division are as follows:

* Croell Redi-Mix Report dated June 24, 2009	86,000	tons
* Croell Redi-Mix Report dated June 15, 2009	110,896	tons

- * The DEQ LQD received no reports from Bruening Rock Products (who had been granted a DEQ AQD permit to operate a crusher - initially in the Rogers Pit - with an AQD approved crushing capacity of 1,050,000 tons per year

The reason that the DEQ Land Quality Division received no report from Bruening Rock Products was because Croell Redi-Mix failed to notify the Land Quality Division that Bruening Rock Products was operating a crusher in the Rogers Pit.

The DEQ LQD cited Croell Redi-Mix for failing to notify them that Bruening Rock Products was operating in the Rogers Pit (10 acre LMO # 1396 ET) in November of 2008.

In the same Notice of Violation of Permit citation, the DEQ LQD cited Croell Redi-Mix for disturbing 20+ acres of ground, when their LQD permit limited Croell Redi-Mix to a maximum of 10 acres. (It also cited Croell Redi-Mix for failing to separate and protect topsoil.)

- * In its original AQD application, Croell Redi-Mix estimated the total limerock deposits on the 10 acre mining site to be 2,000,000 tons.

note: In this recent application, Croell Redi-Mix estimates that the total limerock deposits on 600 + acres is 10,000,000 tons.

You can understand why a layman might be confused by these figures.

People attending yesterday's (December 14, 2009) Air Quality Division hearing regarding Air Quality aspects of the current application of Croell Redi-Mix regarding the Rogers Plt wished to raise questions relating to this (and other) issues.

Unfortunately, the hearing was structured by the Air Quality DEQ in such a way that no questions were permitted, either of other participants making statements or of the representatives of the DEQ Air Quality Division who were present at the hearing.

People who attended the hearing were allowed to make statements. However, the format permitted no follow-up questions by the public of the people who made statements. Questions to representatives of the Air Quality Division of the DEQ (Chad Schlichtemeier and Tanner Shatto) were also off limit.

I spoke with both Mr. Schlichtemeier and Mr. Shatto today. Both stressed that they had remained at the library for a half an hour after the hearing ended in order to answer questions.

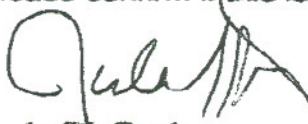
Please note that whereas the hearing itself was recorded and will be typed up in transcript form, any informal discussions after the hearing were not recorded and will not become part of the public record. The public record will consist entirely of comments - rather like a trial with witnesses permitted to testify, but no cross-examination allowed.

Furthermore, the information provided by representatives of the DEQ AQD during the hearing consisted of prepared comments.

So far, we have an application by Croell Redi-Mix to the Air Quality Division of the DEQ, an opinion by the Air Quality Division that the application is complete and an intention therefore to approve the application, opportunity for the public to make comments, but no opportunity for give and take discussions between the public, Croell Redi-Mix and the Air Quality Division of the DEQ with the answers on the record. The public is essentially being told, if you want any answers to your questions which you can hold us to, you will have to request an adversarial hearing before the Environmental Quality Council.

My understanding is that the public has 60 days after an approval by the Air Quality Division of the DEQ of this application of Croell Redi-Mix to request a public hearing before the Environmental Quality Council. Please confirm if this is correct.

Yours truly,



Judith Bush
Managing Partner, Bush Ranches

Rogers Pit

Croell Redi-Mix AQD
100,000 tons / year
granted Feb 13, 2007
Permit CT-4526

Bruening Rock Products
crusher with 1,050,000 tpy capacity
AP - 7113

AQD issue a construction permit to Bruening Rock Products, Inc for the portable crushing/screening equipment approved by AQD

AQD did emissions assessment based upon 1,050,000 tons per year

AQD approval for Bruening Rock Products to a new source in Crook County - notice deadline Feb 25, 2008

first installed at Rogers Pit

approval by DEQ AQD noted not submissions were received

? error?

I faxed letter to AQD on Feb 25 2008

Explanatory letter from AQD dated Feb 28, 2008 after Bruening Rock approved

Re: Air Quality Permit CT-7113
Bruening Rock

"The purpose of Bruening Rock Product, Incorporated' s application is solely in regard to the portable crushing / screening equipment and does not address any changes to Permit CT 4526 for the Rogers Pit, issued February 13, 2007 and held by Croell Redi-Mix. As such, the Division does not have the authority to deny or condition an air quality permit based upon air quality impacts which may be caused by another facility."

Roger's Pit**Land Quality Division****Croell Redi-Mix**

10 acres
LMO 1396 ET

annual report

Bruening Rock Products

no LMO permit to operate
so no yearly production reports
crusher with 1,050,000 tpy capacity

note It appears that Bruening Rock was the de facto operator of LQD LMO 1396 greatly increased capacity double the permitted disturbed area Bruening Rock did not report an annual production

(Bruening rock not permitted to continue operating in Rogers Pit (not arm's length from Croell Redi-Mix

DEQ - Notices of Violation - Croell Redi-Mix**Dec 27, 2007**

LMO No's 1228 and 1395 Johnson County
operating 2 limited mining operations close together
"The operator will not be allowed to : Conduct nearby operations o ten acres or less so as to circumvent the general requirements of the Environmental Quality Act sharing equipment & employees

Nov 5, 2008

Rogers Pit LMO 1396 Crook County
operating on 20.5 acres when limited 10 acre site
topsoil not separated and protected
topsoil salvage from most of affected area inadequate
operator changed to Bruening Rock without informing DEQ LQD
LQD Form 10 not submitted

August 27, 2009

Platte County
failed to adequately save and protect topsoil
during mining operations conducted under 1212 ET