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Jim Ruby, Executive Secretary
Environmental Quality Council

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

In the Matter of the Appeal)
And Petition for Hearing of:)
Croell Redi-Mix, DEQ AQD Permit) Docket No. 10-2803
Application No. AP-9645)
And DEQ AQD Permit No. MD-9645)
Dated March 17, 2010)

**AFFIDAVIT OF CHAD SCHLICHTEMEIER SUBMITTED IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

STATE OF WYOMING)
) ss.
County of Laramie)

I, Chad E. Schlichtemeier, being first duly sworn, deposes and says as follows:

1. I am over the age of 21 and am competent to make this affidavit.
2. The facts and matters stated herein are within my personal knowledge, and are true and correct.
3. I have a Bachelor of Science degree in Chemical Engineering, with a Minor in Mathematics, which I received from the Colorado School of Mines in 1988.
4. In 1989, I began working for the Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD) as an Environmental Specialist. I was

promoted to the position of Environmental Project Analyst in 1990; Environmental Analyst in 1991; and Senior Environmental Analyst in 1992. My job responsibilities during that time period included inspecting various air pollution sources and determining compliance status; reviewing ambient monitoring network and continuous emission monitoring data; reviewing performance tests; and conducting technical analyses for air quality permit applications. I also reviewed Best Available Control Technology (BACT) analyses for minor and major (Prevention of Significant Deterioration (PSD)) emitting facilities under the direction of the District Engineer.

5. In 1994, I was promoted to the position of Environmental Program Principal. I held that position until 1998. My job responsibilities during that time period included performing higher level air quality inspections at a level which required knowledge of industrial processes, control equipment and operational practices; compiling detailed inspection reports and reviewing monitoring reports; and supervisory duties including performance evaluations and district wide work schedule management. My job responsibilities also included air quality permitting within Districts 1 and 2. I conducted technical analyses for all New Source Review (NSR) permit applications within the districts, which included minor and major (PSD) emitting facilities. Part of the technical analysis included reviewing BACT analyses.

6. In 1998, I was promoted to the position of Environmental Program Supervisor. I held that position until January, 2007. My job responsibilities during that time period included day-to-day management of the PSD and minor source construction and modification permitting programs which is also referred to as New Source Review

(NSR); assisting the program manager in directing the operational, personnel and planning functions of the NSR program; reviewing permit analyses for technical accuracy and ensuring that all applicable requirements, rules and regulations have been addressed; monitoring and delegating work related to processing applications within the regulatory time frame; meeting with applicants to discuss DEQ/AQD's interpretation of applicable regulations, policy and guidance; supervise and train staff; and provide day-to-day staff assistance regarding technical issues and regulatory interpretations.

7. On February 1, 2007, I was promoted to the position I currently have of NSR Program Manager. My current job responsibilities include overall management of the NSR permitting program; directing the operational, personnel and planning functions of the NSR program; regulation development activities; policy development activities; managing a staff of about 14; conducting final review of all permit applications; and making recommendations to the DEQ/AQD Administrator.

8. I reviewed Croell Redi-Mix's permit application AP-9645 for the Rogers Rock Pit, the technical analysis initially completed by Nick Meeker, public comments, the DEQ/AQD decision documents, correspondence and other documents before I made a final recommendation to the DEQ/AQD Administrator that the permit should be issued.

9. As part of my current and/or former job responsibilities, I have routinely applied and interpreted the Wyoming Air Quality Standards and Regulations (WAQSR), and other air quality policy and guidance documents. I am familiar with the WAQSR, federal air quality statutes and guidance documents because I have used these documents to perform my former and/or current job responsibilities.

10. Since 1996, the DEQ/AQD has issued over 15,100 construction or modification permits and waivers. Of those construction or modification permits, over 50 were PSD new source and modification permits for major sources such as refineries, large compressor stations, and coal-fired power plants.

11. I am aware that since 1996, DEQ/AQD has issued approximately 180 air quality construction permits for quarries, including approximately 9 such permits in Crook County.

12. As part of my current and/or former job responsibilities, I routinely review BACT analyses submitted by permit applicants and regulatory BACT analyses conducted by DEQ/AQD staff. I have also personally prepared, reviewed or read regulatory BACT analyses addressing particulate matter (PM) emissions prepared for minor and major air pollution sources such as electric power generating units combusting coal in a boiler, coal mines, and various quarries and gravel pits.

13. On July 6, 2009, the DEQ/AQD received a permit modification application from Croell Redi-Mix, Inc. for a 600.07 acre limestone mine named the Rogers Rock Pit, located in Crook County, Wyoming. The application represented that the maximum annual production would be 500,000 tons per year. The application also identified equipment and operations planned for the site to include limestone crushing, screening, blasting, exposed acreage, stockpiling, haul activity, a hot mix asphalt plant, and a concrete batch plant. A true and correct copy of Croell's Application is attached hereto as Exhibit 1.

14. On July 8, 2009, the DEQ/AQD notified Croell that it had received the permit application (AP-9645) for the Rogers Rock Pit located in Crook County, Wyoming. A true and correct copy of DEQ/AQD's Receipt Notice is attached hereto as Exhibit 2.

15. On September 3, 2009, the DEQ/AQD notified Croell that its permit application (AP-9645) was complete and the DEQ/AQD was proceeding with a technical review of the application. A true and correct copy of DEQ/AQD's completeness determination is attached hereto as Exhibit 3.

16. On September 8, 2009, the DEQ/AQD received additional information from Croell related to fugitive particulate emissions and controls for air emissions from topsoil, overburden, mined material, and blasting. A true and correct copy of Croell's submittal is attached hereto as Exhibit 4.

17. On September 24, 2009, the DEQ/AQD notified Croell that it had completed and was publically noticing its initial evaluation of AP-9645. DEQ/AQD also included an initial billing for 15.5 hours of staff time spent in reviewing Croell AP-9645. A true and correct copy of DEQ/AQD's Application Analysis dated September 8, 2009 is attached hereto as Exhibit 5. A true and correct copy of DEQ/AQD's notification letter is attached hereto as Exhibit 6. A true and correct copy of DEQ/AQD's public notice is attached hereto as Exhibit 7. A true and correct copy of DEQ/AQD's Initial Invoice dated September 22, 2009 is attached hereto as Exhibit 8.

18. On September 25, 2009, the DEQ/AQD submitted a copy of the public notice, permit application, and DEQ/AQD's Application Analysis to the Crook County

Clerk to be made available for public inspection. A true and correct copy of DEQ/AQD's letter is attached hereto as Exhibit 9.

19. On October 1, 2009, the DEQ/AQD advertised its proposed decision in the Sundance Times and provided public comment through November 2, 2009. A true and correct copy of the publisher's affidavit is attached hereto as Exhibit 10.

20. On October 9, 2009, Croell submitted a check to the DEQ/AQD reflecting payment for DEQ/AQD's Initial Invoice. A true and correct copy of Croell's check is attached hereto as Exhibit 11.

21. On November 1, 2009, the DEQ/AQD received a fax request for a public hearing. A true and correct copy of the public hearing request is attached hereto as Exhibit 12.

22. During the public comment period, the DEQ/AQD received eight comment letters. I read these written comments. True and correct copies of the comments the DEQ/AQD received are attached hereto as Exhibit 13.

23. On November 17, 2009, the DEQ/AQD notified commenters that a public hearing regarding the DEQ/AQD's proposed decision to issue an air quality permit to Croell to modify the Rogers Rock Pit would be held on December 14, 2009. A true and correct copy of DEQ/AQD's Notice of Public Hearing is attached hereto as Exhibit 14. True and correct copies of DEQ/AQD's commenter notification letters are attached hereto as Exhibit 15.

24. On November 18, 2009, the DEQ/AQD notified Croell that the DEQ/AQD had received comment letters and requests for a public hearing. A true and correct copy of DEQ/AQD's letter is attached hereto as Exhibit 16.

25. On November 20, 2009, the DEQ/AQD submitted a copy of the Notice of Public Hearing to the Crook County Clerk. A true and correct copy of DEQ/AQD's letter is attached hereto as Exhibit 17.

26. On November 26, 2009, the DEQ/AQD advertised in the Sundance Times that it would hold a Public Hearing on December 14, 2009 regarding Croell's application. A true and correct copy of the publisher's affidavit is attached hereto as Exhibit 18.

27. On December 4, 2009, the DEQ/AQD received a fax from Judith Bush acknowledging receipt of information and requesting additional information. A true and correct copy of the fax is attached hereto as Exhibit 19.

28. On December 6, 2009, the DEQ/AQD received a fax from Judith Bush addressed to Don McKenzie, DEQ, Land Quality Division (LQD) and addressed to Governor Dave Freudenthal. A true and correct copy of these Fax Transmittals is attached hereto as Exhibit 20.

29. On December 8, 2009, the DEQ/AQD received a fax from Judith Bush addressed to Don McKenzie, DEQ/LQD. A true and correct copy of this Fax is attached hereto as Exhibit 21.

30. On December 14, 2009, the DEQ/AQD held a public hearing on its proposed decision. I conducted/attended the public hearing. A true and correct copy of the public hearing record is attached hereto as Exhibit 22.

31. On March 17, 2010, the DEQ/AQD issued its decision and response to comments. A true and correct copy of DEQ/AQD's decision and response to comments is attached hereto as Exhibit 23. A true and correct copy of a March 15, 2010 file memorandum noting specific changes to the proposed permit conditions is attached hereto as Exhibit 24.

32. On March 17, 2010, the DEQ/AQD issued Permit MD-9645 to Croell Redi-Mix, Inc. for modification of the Rogers Rock Pit, located approximately 5 miles northeast of Sundance, in Crook County, Wyoming, to include limestone crushing, screening, blasting, exposed acreage, stockpiling, haul activity, a hot mix asphalt plant, a concrete batch plant, and expansion to 600 acres. A true and correct copy of Permit MD-9645 is attached hereto as Exhibit 25.

33. On March 17, 2010, the DEQ/AQD provided copies of Permit MD-9645 to Commenters. The DEQ/AQD noted that changes had been made to permit conditions as a result of public comments. True and correct copies of DEQ/AQD's permit notification letters are attached hereto as Exhibit 26. A true and correct copy of DEQ/AQD's commenter mailing list is attached hereto as Exhibit 27.

34. Also on March 17, 2010, the DEQ/AQD sent Croell a copy DEQ/AQD's decision and response to comments and Permit MD-9645. A true and correct copy of DEQ/AQD's letter is attached hereto as Exhibit 28.

35. On March 22, 2010, the DEQ/AQD emailed a copy of the permit and decision letter for MD-9645 to Judith Bush. A true and correct copy of DEQ/AQD's email is attached hereto as Exhibit 29.

36. On April 5, 2010, the DEQ/AQD submitted its final invoice for application review fees for AP-9645/MD-9645 reflecting an additional 100.5 hours of DEQ/AQD staff time reviewing comments and hearing, and preparing and issuing the permit. A true and correct copy of DEQ/AQD's final invoice is attached hereto as Exhibit 30.

37. On April 19, 2010, Gina Johnson, DEQ/AQD Administrative Specialist, notified me that Ms. Bush had received DEQ/AQD's emailed copy of the decision and the second copy sent by DEQ/AQD on April 19, 2010. A true and correct copy of Gina's notification is attached hereto as Exhibit 31.

38. On May 7, 2010, Croell submitted a check to the DEQ/AQD reflecting payment for DEQ/AQD's Final Invoice. A true and correct copy of Croell's check is attached hereto as Exhibit 32.

39. DEQ/AQD requires Best Available Control Technology (BACT) analysis resulting in an emission limit, design, equipment, work practice or operational standard or combination, to obtain the maximum degree of reduction of each New Source Review (NSR) regulated pollutant which will be emitted from the proposed source and which the DEQ/AQD administrator determines is achievable for that source. PM10 (particulate matter less than or equal to 10 micrometers in diameter) is a regulated NSR pollutant.

40. DEQ/AQD determined that at a minimum, two applications of chemical dust suppressants annually was BACT for fugitive particulate matter emissions from the work areas, access roads and haul roads at the Rogers Rock Pit. See Ex. 5 at 000027; Ex. 23 at 000147-148.

41. DEQ/AQD determined that a wet suppression system was BACT for fugitive particulate matter emissions from crushing/screening operations. See Ex. 5 at 000027; Ex. 23 at 000147-148.

42. DEQ/AQD added additional BACT requirements for fugitive particulate matter emissions to Permit MD-9645 during the permitting process. See Ex. 23 at 000147-148, Ex. 24, and Ex. 25 at 000168.

43. DEQ/AQD determined that given the utilization of BACT, operations at the Rogers Rock Pit would not prevent the attainment or maintenance of any ambient air quality standards. Ex. 5 at 000028.

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44. DEQ/AQD's review of Croell's application included reviewing a letter from the Crook County Planner, dated February 12, 2008, noting that Crook County does not have any zoning of any time, or other rules or regulations applicable to gravel extraction operations. See Ex. 1 at 000021.

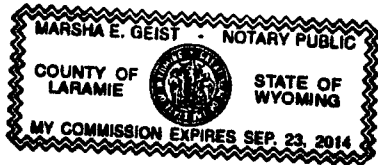
DATED this 19th day of October, 2010.

Chad E. Schlichtemeier
Chad E. Schlichtemeier
NSR Program Manager – DEQ/AQD

State of Wyoming)
) ss.
County of Laramie)

Subscribed and sworn before me by Chad E. Schlichtemeier on this 19th day of October, 2010.

Witness my hand and official seal.



Marsha E. Geist
Notary Public

My commission expires on: Sept. 23, 2014