Exhibit 8

EQC Docket 10-2803
Judith Bush

July 12, 2010 letter from J. Bush to Nancy Vehr regarding public AQD documents becoming available to her only through the process of Discovery

July 7, 2010 letter from Nancy Vehr to J. Bush stating that public documents will only be available to her through the discovery process

* **Discovery exists to make information otherwise unavailable available to a**

  personinvolved in a legal process. Discovery is not a justification for making public documents off limits to a member of the public involved in a legal proceeding which these public documents would clarify.

* **It is the right of the public to search public documents for relevant information which they may not know exists, and therefore would not be in a position to request during the discovery process. Essentially, the AQD, through its legal representative in the Attorney General's office is controlling the flow of information which should be readily available to any member of the public, regardless of whether or not they are involved in a legal process in which these documents might prove relevant.**

Office of the Attorney General

Governor
Dave Freudenthal

Attorney General
Bruce A. Salzburg

Water and Natural Resources Division
123 State Capitol
Cheyenne, Wyoming 82002
307-777-6946 Telephone
307-777-3542 Fax

Chief Deputy Attorney General
Elizabeth C. Gagen

Division Deputy
Jay A. Jerde

July 7, 2010

Ms. Judith Bush
c/o Bush Ranches
P.O. Box 861
Sundance, WY 82729

Re: *Public Records Request for Croell Redi-Mix MD-9645*

Dear Judy,

It is my understanding that on July 1, 2010, you requested to review the above permitting file from the Department of Environmental Quality, Air Quality Division (DEQ/AQD). On May 14, 2010, you also filed a "Petition for Hearing Before EQC," which has been docketed as EQC Case No. 10-2803. Typically, when cases are on appeal, documents are provided to the parties in response to discovery requests, not public records requests. Therefore, future records requests regarding this matter will need to be handled through the discovery process, not the public records act.

Enclosed is a CD containing a copy of the above permitting file. The lower right hand corner of each document has been Bates numbered with a unique identifier (Ex. AQD Croell DN 10-2803). The CD contains Bates documents 000001 – 000194 in PDF format. If you have any difficulty opening the files, please let me know.

Sincerely,

Nancy E. Vehr
Sr. Asst. Attorney General

Enc.
cc w/o enc.: DEQ-AQD (Chad Schlichtemeier)

(i.e. no longer available to the public, myself included, via the Public Records Act.

Additionally, the discovery process is not open to members of the public not parties to the hearing, and they are left with no method of obtaining documents which remain, legally, public documents.

The public hearing before the EQC relating to this matter will receive public notice prior to being held. Members of the public, including those who objected to this application during the period for filing public objections and / or those wishing to obtain intervener status at the public hearing, may wish to comprehensively review all public documents relating to the public record of this matter. It is their right to do so.

From my standpoint as a party to the upcoming public hearing into this matter, It is difficult to specify and request a copy of a particular (in this case public) document via the discovery process if the existence of that document is not known.

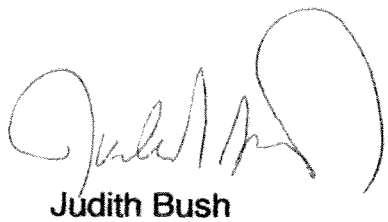
I find it difficult to view the sequestering of the record in this matter by the Office of the Attorney General (employees of which will assist and / or represent the DEQ AQD in this matter, and which, as such, is not an impartial body in these proceedings) as other than an attempt to withhold from the members public documents which it is the right of members of the public to search.

If the fear is that files may be tampered with by the public, then members of the public can and should be supervised by DEQ staff when looking through the files.

Once again, I do not understand the premise that public documents relevant to a matter which will be heard by the EQC in a public hearing become unavailable to the public once a Petition for a Public Hearing before the EQC has been filed.

Would you please respond.

Yours truly,



Judith Bush

By Fax **(307) 777-3542**

Judith Bush
c/o PO Box 861
Sundance, WY 82729

July 12, 2010

tel / fax 307-283-3835
please phone before faxing

to: Ms. Nancy Vehr
Sr. Asst Attorney General
Office of the Attorney General
123 State Capitol
Cheyenne, Wyoming 82002
(tel 307-777-6946)

no pages 3 incl. attachment (July 7, 2010 letter from Nancy Vehr to Judith Bush)

Re: DEQ AQD AP - 9645 and MD- 9645
EQC Docket # 10-2803
Request for Public Records

Dear Ms. Vehr,

Thank you for sending me a CD regarding this matter.

It is correct that I drove ~300 miles from our ranch east of Sundance, Wyoming to Cheyenne at considerable time, effort and expense, in order to obtain documents which are classified as DEQ AQD public documents and which relate to the above noted matter.

On July 1, 2010, Gina Johnson, AQD Cheyenne, informed me that these records had been sequestered by the Attorney General's Office due to my having filed a Petition for a Public Hearing regarding this matter (filed May 14, 2010).

If I understand your July 7, 2010 letter (copy attached) , you are telling me that DEQ documents which are classified as public documents are no longer "typically" available to the public once an appeal to the EQC has been filed.

I understand that by process of discovery, it is possible for parties to obtain copies of relevant documents which are not classified as public documents and which might otherwise not be obtainable by parties to an appeal process. I do not understand the process by which public documents become de facto no longer public documents,

Exhibit 9

EQC Docket 10-2803
Judith Bush

Letter from Croell Redi-Mix Attorney Kim Cannon to Steve Dietrich, AQD to change the designated legal description of mining activities permitted in Croell Redi-Mix Permit MD 9645 from the NWNE of Section 25 T 52N R 62 W to (part of Bush Ranches and not located within the 600.07 acre minesite) to theNESW of Section 25 T 52N R 62W (lands previously operating as Frost Rock Products, Inc.'s LMO 1461 and designated in error as in Table C-1 as lands to which the BLM owns the mineral rights. Appendix C- and Table C-1 are contained Exhibit 2. Mr. Cannon states that this is a typographical error which can be changed

It is unclear whether such a change can be made at a time when this error (for whatever reason) can be changed at this time. I pointed out that the legal description of the lands which Croell Redi-Mix and the AQD have designated as the site of mining operations on all AQD permits it has issued relating to mining operations at the Croell Redi-Mix Rogers Rock Pit / Rogers Rock Quarry since 2007 in my Petition for a hearing before the EQC dated May 14, 2010.

I note that Mr. Cannon is still wanting to designate 40 acres (this time within the minesite) for some purpose.

Please note that I have asked Chad Schlichtemeier of AQD Sheridan to explain to me the significance, if any, of a 40 acre parcel within a larger (or containing a smaller) minesite. Mr. Schlichtemeier consulted with the AQD attorney in this matter, Nancy Vehr, who telephoned to say that this could be discussed within the setting of a settlement discussion (but not used in the hearing, should the hearing proceed). Presumably this is more public information which is now off limits. This is ridiculous. If there are explanations which would assist in solving this matter, it would be to everyone's interest to discuss them. If public information is being withheld to protect Croell Redi-Mix and the AQD, this is unethical.

If there is a technical reason for designating a particular 40 acres within the 600+ acre minesite, this still does not justify using the legal description of that 40 acres (even if within or encompassing the minesite) in a public notice where the technical reason, assuming one exists, is not relevant to the public, whereas the size and location of the minesite is.

DAVIS & CANNON, LLP

ATTORNEYS AT LAW

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LAKEWAY PROFESSIONAL CENTER
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KIM D. CANNON
HAYDEN F. HEAPHY, JR.
KATE M. FOX
JOHN C. McKINLEY**
CLINT A. LANGER

ALISON A. OCHS*†
J. MARK STEWART
SASHA M. JOHNSTON*
AMANDA K. FERGUSON*

OF COUNSEL
RICHARD M. DAVIS, JR.*
CHARLES R. HART

August 19, 2010

Steve Dietrich
Air Quality Administrator
Dept. of Environmental Quality
Herschler Building
122 West 25th Street, Room 1714
Cheyenne, WY 82002

RE: Correction to Legal Description in AQD Permit No. MD-9645

Dear Mr. Dietrich:

On behalf of Croell Redi-Mix, Inc., it has come to our attention that a typographical error was made with respect to the legal description in the above-referenced permit. The reference to the NW¼NE¼ of Section 25 in Crook County, Wyoming should be deleted. That land belongs to Judith Bush. Instead, reference to the NE¼SW¼ of Section 25, Township 52 North, Range 62 West, should be inserted.

It is my understanding that this correction in the land description can be done administratively. Please do so.

Thank you.

Yours very truly,

DAVIS & CANNON, LLP

Kim D. Cannon

KDC:rg

cc: Judith Bush
Croell Redi-Mix, Inc.

Exhibit 10

EQC Docket 10-2803
Judith Bush

Judith Bush's May 14, 2009 Petition for Hearing Before EQC

BY FAX

To: Acting Administrator, DEQ Air Quality Division 307 - 777-5616

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

To: Croell Redi-Mix 307-283-1450

Re: **DEQ AQD Permit Application No. AP-9645**
DEQ AQD Permit No. MD-9646, dated March 17, 2010

From: Judith Bush ph / fax 613-392-2313
2313 County Rd 64 *please phone before faxing*
Carrying Place,Ontario
Canada K0K 1L0

date: May 14, 2010

PETITION FOR HEARING BEFORE EQC

I, Judith Bush, acting Pro Se, pursuant to Rules of Practice and Procedure, Chapter 1, Section 3, Initiation of Proceedings, and pursuant to Environmental Quality Act 35-11- 101 - 1104, and the Wyoming Procedure Act 16-3-107, hereby petition for a Hearing before the Environmental Quality Council in the matter regarding DEQ Air Quality Division Decision regarding AQD AP # 9645 (and AQD Permit No. 9645 issued to Croell Redi-Mix on March 17, 2010.)

1) Public Notice failed to provide any indication of the scope of the proposed "modification" of the Croell Redi-Mix Mining operation located at the Rogers Pit, which was to expand the operation from a ten acre minesite with an estimated annual production of 100,000 tons to a 600+ acre minesite with an estimated annual production of 500,000 tons.

In addition to failing to provide sufficient information for a reader to judge whether or not a trip to the County Clerks Office should be made to learn more, the information which is provided is both false and misleading.

Instead of providing the approximate size and location of the expanded minesite (something along the order of "~ 600 acres contained in parts of Sections 25, 26 and 35 T52N R62W, located South of the I-90 ROW approximately ?? miles east of Sundance in Crook County Wyoming" would have described the situation accurately), the October 1, 2009 public notice provides the legal description of the ten acre LMO, stating, "

" *The Applicant has requested permission to modify the Rogers Rock Pit, which will include limestone crushing, screening, blasting, exposed acreage, stockpiling, haul activity, a hot mix asphalt plant and a concrete batch plant located in the NW1/4NE1/4 of Section 25, T52N, R62W, approximately five (5) miles northeast of Sundance in Crook County, Wyoming...."*

This is the sum total of the information provided on the nature of the application provided to the public in the October 1, 2009 edition of the Sundance Times. It leaves the reader with the impression that the project is located within a 40 acre quarter section.

It is unclear why a public notice for a 600 acre minesite would provide the legal description of the ~ 10 acre LMO which it will supersede.

Moreover, the lands described in the public notice ((the NW1/4NE 1/4 of Section 25 T52N R62 W) do not even belong to Roger Croell. They are a part of Bush Ranches. (see immediately below.)

2) I have checked past public notices regarding AQD permits relating to the Croell Redi-Mix mining and crushing operations at the Rogers Pit, as well as past AQD permits relating to Croell Redi-Mix mining operations at the Rogers Pit. Those I have seen all contain the same incorrect legal description (the NW1/4NE 1/4 of Section 25 T52N R62 W). Once again, this land is not owned by Roger Croell, and the owners of lands operating as Bush Ranches have at no time consented for any of our land to be included in the Croell Redi-Mix minesite at the Rogers Pit .

I did not think to compare AQD's legal description of lands operating under AQD permits granted to Croell Redi-Mix for its mining and crushing operations at the Rogers Plt with with the legal description of lands operating under LQD permits granted to Croell Redi-Mix for its mining and crushing operations at the Rogers Pit, assuming that there was at least some coordination between the two departments in that regard. I only noticed the discrepancy between the two late last month (April / 2010), when I was checking legal descriptions because Mr. Croell has asked us to share in the expense of a boundary fence which he has had constructed between his property and that of Bush Ranches.

I am presuming that the circumstance described above throws into question the legality of all permits issued by AQD to Croell Redi-Mix regarding its operations at the Rogers Pit to date.

Croell Redi-Mix owns and operates a number of gravel and / or limerock mining and crushing operations in various states. This particular Croell Redi-Mix limerock mining and crushing operation is located on the ranch which is Mr. Croell's home. (Mr. Croell is the owner and President / CEO of Croell Redi-Mix.) it is difficult to see how this error has perpetuated itself for so long.

In addition, either AQD has maps submitted directly to it depicting the minesite to which its permits apply, or it takes its legal description from LQD. In either case, it is difficult to see how such an error occurred.

3) Failure of AQD to inform some objectors by registered / certified mail that the AQD Decision regarding this matter was issued on March 17, 2010.

The first page of the Decision (in the INTRODUCTION) lists members of the public who submitted comments regarding this AQD Application, and who, as a result, are entitled to appeal this decision and should have been notified by registered / certified mail regarding the EQC Decision in this matter.

There was no Affidavit of Service attached to the registered letter which was sent to some but not all of those members of the public who had objected to this AQD application. I therefore do not know who among the persons noted in the introduction portion of the Decision received the registered letter informing them that the AQD Decision had been issued and who did not. AQD will have a record of this.

I did not receive a copy of the registered letter. When I spoke to Judith Hamm at the end of April, she was unaware that the AQD Decision had been issued, and was in fact assuming that it had not yet been issued. For certain, neither Judith Hamm nor I were sent a copy of the registered letter, which should have been mailed on March 17, 2009.

This was a significant omission in the public process surrounding this application, since objectors wishing to appeal the March 17 2009 decision to the EQC had 60 days from the date the Decision is issued to do so (Section 16. Chapter 1. General Rules of Practice and Procedure) , limiting our ability to participate effectively in this public process.

Kimberly M. Metz e-mailed me a copy of the (Wednesday), March 17, 2010 Decision on Monday, March 22, 2010. Although I should have been sent a registered letter,if only for the sake of AQD knowing that I had received timely notice, from my point of view, e-mailing would have been sufficient had I been

informed by AQD at the time that the e-mail had been sent. However, I was not so informed. I do not have internet or e-mail at home, was not familiar with the name Kimberley Metz (who sent the e-mail) , and the the decision was buried in junk mail.

I am attempting to file this appeal with the EQC and the AQD in a timely manner, however, I believe given failure to provide timely notice by registered mail, the deadline for filing for an appeal should be extended for one month, until mid June, 2010. Perhaps, with the help of AQD, we can figure out why property operating as Bush Ranches has been designated a minesite permitted to Croell Redi-Mix, as well as to sort out other matters contained in this letter, either simplifying the hearing process, or making it unnecessary.

4) AQD asserts that Croell Redi-Mix will not be permitted to exceed an annual production of 500,000 tons per year at its Rogers Pit minesite. (500,000 tons / year is the maximum estimated production per year which Croell Redi-Mix provided in its application.

It is unclear what legal authority AQD has to enforce the amount of maximum yearly production, I have been unable to find a rule or statute permitting AQD to directly govern the amount of production. If there is such a rule or law, I would appreciate having it identified.

In my December 2, 2009 objection letter to AQD, I noted that AQD's method of determining the amount of dust and toxic airborne particles generated by the operation in a year is based upon the Applicant's estimate of maximum yearly production (in this case 500,000 tons / year), and that from this calculation AQD then determines the classification of the operation and the conditions which must be met (both the the EQC and Croell Redi-Mix.

Croell Redi-Mix's estimate of maximum yearly production at the modified (expanded) Rogers Pit came up for scrutiny at the December 21, 2009 public hearing before the EQC. (That hearing concerned the the Croell Redi-Mix application to LQD regarding the same mining operation at the Rogers Pit.)

The LQD representatives, one of whom has been in charge of the Croell Redi-Mix operation at the Rogers Pit since its inception as an LMO (in late 2006) stated that although LQD requires yearly production information from permittees in annual reports , LQD is neverthess unable to strictly regulate production within any given year. LQD made it clear that it considered the estimated maximum yearly production just that - and that market conditions would dictate how much limerock was blasted, crushed, hauled off the minesite and sold in any given year.

In short, LQD has no power to limit Croell Red-Mix to a maximum of 500,000 tons of product per year. In addition, if I am understanding these rules and

regulations correctly, it appears that increased production triggers amendments to the permit which have the effect of permitting increased yearly production. It is unclear whether,if these increases are done incrementally, future public input into the process would ever be triggered.

I understand that AQD has the authority to control or limit production if dust and toxic particulate matter exceed the limits established and enforceable by the AQD. However, since at one point AQD approved a crusher with a maximum production capacity of 1,050.000 tons per year, did the math on that level of production and found that it fell within the AQD limits for dust and other airborne particulate matter, it is difficult to see how AQD is equipped to limit production to less than half that amount. Once again, I have seen nothing to indicate that Croell Redi-Mix has committed to producing no more that 500,000 tons per year,either in the Air Quality or the Land Quality Applications. Such a statement from Croell Redi-Mix might constitute an enforceable contract, although it is not clear that AQD has the authority to make such a contract with Croell Redi-Mix.

Once again, I would prefer, and I believe that the situation merits, an extension to the deadline for filing for an appeal before the EQC. I will be in Wyoming and will contact AQD shortly. I will not mail out notice to other objecting parties until after I hear from AQD regarding the possibility of an extension to the May 14 deadline. However, I see no alternative but to file for an appeal at this time simply to avoid losing the right to do so.

Yours truly,

Judith Bush

CERTIFICATE OF SERVICE

I, Judith Bush, acting pro se, do hereby certify that a true and correct copy of the foregoing **Amended Petition for Hearing Before the EQC,** *comprised of:*

1) *Addendum to May 14, 2010 Petition for Hearing before the EQC. dated August 11, 2010*
2) *copy of May 14, 2010 Petition for Hearing before the EQC (previously filed with EQC)*

was served via facsimile on Wednesday, Aug 11, 2010
and also by depositing the same in the U.S. mail on Wednesday, Aug 11 , 2010
addressed to:

Kim D. Cannon (# 5-1401)
Davis and Cannon
40 South Main Street
P.O. Box 728
Sheridan, Wyoming 82801

by Facsimile (307)672-8955 on Aug 11, 2010
and by regular mail on Aug 11, 2010

Nancy Vehr (#6-3341)
Sr. Asst. Attorney General; and
Amanda Kroul
Office of Attorney General
123 State Capitol
Cheyenne, Wyoming 82002

by Facsimile (307) 777-3542 on Aug 11, 2010
and by regular mail on Aug 11, 2010

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

by Facsimile (307) 777-6134 on June 11, 2010
and by regular mail on June 12, 2010

Judith Bush date
PO Box 861
Sundance, Wyoming
82729

tel / fax 307 - 283 -2835
please phone before faxing

Exhibit 11

EQC Docket 10-2803
Judith Bush

Department of Environmental Quality's Response to Judith Bush's May 14, 2010 Petition for Hearing Before the EQC

(dated June 11, 2010)

While I am admittedly not knowledgeable of the legal ramifications of straight forward responses to matters raised in a petition for a hearing, I found this response particularly obtuse.

Nancy Vehr (#6-3341)
Senior Assistant Attorney General
123 Capital Building
Cheyenne, WY 82002
Telephone: (307) 777-6946
Facsimile: (307) 777-3542

Attorney for the State of Wyoming,
Department of Environmental Quality

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 Application No. AP-9645 And DEQ AQD Permit No. MD-9645 Dated March 17, 2010	))))))	Docket No. 10-2803

DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE

Respondent, the Wyoming Department of Environmental Quality (DEQ)/ Air Quality Division (AQD), by and through the Office of the Attorney General of the State of Wyoming, in response to Judith Bush's (Petitioner) Petition for Hearing Before EQC, responds as follows:

Petitioner's introductory paragraph appears to be for descriptive purposes and does not contain factual allegations. Therefore a response is not required. However, to the extent this paragraph is deemed to contain any factual allegations, DEQ/AQD denies.

1. DEQ/AQD admits that a public notice of its proposed intent to approve Application AP-9645 was published in the Sundance Times on October 1, 2009. DEQ/AQD asserts that the public notice speaks for itself and paraphrasing the public notice is not an allegation of fact which requires a response. DEQ/AQD also admits that

it placed a copy of Croell Redi-Mix, Inc.'s (Croell) application to modify the Rogers Rock Pit and the DEQ/AQD's analysis in the office of the Crook County Clerk. The DEQ/AQD further admits that during the public comment period, it did not receive any comments regarding the mine location's legal description. DEQ/AQD denies all other allegations in section 1.

2. DEQ/AQD admits that Croell's application included a description of the pit location and a map. DEQ/AQD asserts that the application and map speak for themselves. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the remaining matters asserted in section 2 and therefore denies the same.

3. DEQ/AQD asserts that the decision document speaks for itself. DEQ/AQD further admits that it notified all commenters of its decision granting Permit MD-9645 to Croell to modify the Rogers Rock Pit. DEQ/AQD admits that Kimberly M. Metz is a DEQ/AQD employee. DEQ/AQD further admits that on March 22, 2010, DEQ/AQD emailed a copy of its decision and Permit MD-9645 to Petitioner. The allegations in section 3 asserting that Petitioner timely filed her appeal call for a legal conclusion for which no response is required. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the remaining matters asserted in section 3 and therefore denies the same.

4. DEQ/AQD admits that Condition No. 11 of Permit MD-9645 limits production. DEQ/AQD asserts that Permit MD-9645 speaks for itself and paraphrasing Permit MD-9645 is not an allegation of fact which requires a response. The allegations in section 4 questioning the clarity of DEQ/AQD's enforcement authority call for a legal conclusion for which no response is required. DEQ/AQD asserts that its enforcement authority is derived from federal and/or state law, including, but not limited to, the Wyoming Environmental Quality Act, Wyoming Air Quality Standards and Regulations, and Permit MD-9645. DEQ/AQD denies that it received any letter from Petitioner dated December 2, 2009. DEQ/AQD admits that on December 14, 2009, it held a public hearing on Croell's application and the DEQ/AQD's analysis. DEQ/AQD is without sufficient knowledge or information to form a belief as to the truth of the remaining matters asserted in section 4 and therefore denies the same.

5. Petitioner's final paragraph appears to be for descriptive purposes and does not contain factual allegations. Therefore a response is not required. However, to the extent this paragraph is deemed to contain any factual allegations, DEQ/AQD denies the same.

6. To the extent the final page of Petitioner's Petition for Hearing Before EQC labeled "2009 Notice of Assessment" is deemed to contain any factual allegations, DEQ/AQD denies the same.

AFFIRMATIVE DEFENSES

1. Petitioner failed to comment on the legal description during the permitting process and therefore failed to preserve the issue for appeal.

2. Petitioner has failed to state a claim upon which relief can be granted.

3. Petitioner has failed to state any requested relief.

4. Petitioner is not an aggrieved party.

5. DEQ/AQD reserves the right to assert additional affirmative defenses after discovery is completed and additional facts are learned.

6. DEQ/AQD's actions complied with the Wyoming Environmental Quality Act, Wyoming Air Quality Standards and Regulations, and other applicable laws and regulations.

WHEREFORE DEQ/AQD respectfully requests this Council uphold DEQ/AQD's issuance of Permit MD-9645 to Croell and deny the Petition for Hearing.

RESPECTFULLY SUBMITTED this 11th day of June, 2010.

FOR RESPONDENT DEQ:

Nancy Vehr (#6-3341)
Senior Assistant Attorney General
123 Capital Building
Cheyenne, WY 82002
Telephone: (307) 777-6946
Facsimile: (307) 777-3542
nvehr@state.wy.us
Attorney for the State of Wyoming, DEQ

CERTIFICATE OF SERVICE

I hereby certify that on the 11 day of June, 2010, a true and correct copy of the foregoing *Department of Environmental Quality's Response* was served by placing the same in the United States mail, postage pre-paid, addressed to:

Judith Bush
P.O. Box 861
Sundance, WY 82729

Mr. Roger Croell
Croell Redi-Mix, Inc.
PO Box 1352
Sundance, WY 82729

Amanda J. Brown
Wyoming Attorney General's Office

Exhibit 12

EQC Docket 10-2803
Judith Bush

Croell Redi-Mix, Inc's Response Pursuant to the Order of the Environmental Quality Council directing a Response to the appeal Filed by Judith Bush in this matter

dated June 14, 2010

This document accuses me of being "disingenuous" for noticing and pointing out that the legal description provided for MD-9645 was incorrect. It implies that I should have noticed it a long time ago.

DEQ AQD should have noticed it a long time ago. The aerial photographic maps and the legal description of the LMO minesite 1396 were available to the AQD, who approved the initial and all subsequent applications of Croell Redi-Mix.

The legal description provided in Appendix and Table C-1, the the NWNE of Section 25 is not included in that legal description. It is the job of AQD to check these details before recommending that any permit be issued.

Kim D. Cannon (#5-1401)
Davis & Cannon, LLP
40 South Main Street
P.O. Box 728
Sheridan, Wyoming 82801
Phone: 307/672-7491
Facsimile: 307/672-8955
cannon@davisandcannon.com

Attorney for Defendant
Croell Redi-Mix. LLC

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	)	

CROELL REDI-MIX, INC.'S RESPONSE PURSUANT TO THE ORDER OF THE ENVIRONMENTAL QUALITY COUNCIL DIRECTING A RESPONSE TO THE APPEAL FILED BY JUDITH BUSH IN THIS MATTER

Respondent Croell Red-Mix, Inc. (hereafter "Respondent Croell") responds to the enumerated paragraphs in the Judith Bush Petition for hearing before the EQC as follows:

1. Sufficiency of Public Notice. A public notice of the Wyoming Department of Environmental Quality (DEQ)/ Air Quality Division (AQD) was sufficient under the statute. DEQ and AQD published the public notice of the intent to approve that Application NO. AP-9645 on October 1, 2009. A copy of the application for the permit was properly deposited and reviewable at the office of the County Clerk of Crook County, Wyoming. Respondent Croell denies all other allegations in paragraph 1 of the petition inconsistent herewith.

2. Legal Description of Permitted Area. The application for the Air Quality Permit on its face referenced a complete land description contained in Table C-1 describing approximately 600.07 acres of land. The full description of the lands is as follows:

> A tract of land located in the SE¼NW¼, that portion of SW¼NW¼ located east of Interstate 90 Right-Of-Way, SW¼ and SW¼SE¼ of Section 25; that portion of SE¼NE¼ located east of Interstate 90 R-O-W, that portion of SE¼ located east of Interstate 90 R-O-W, and that portion of SE¼SW¼ located east of Interstate 90 R-O-W of Section 26; E½NE¼, NW¼NE¼, that portion of the N½NW¼ located east of Interstate 90 R-O-W and the NE¼SE¼ of Section 35, T52N R62W of the Sixth Principal Meridian, Crook County, Wyoming.
>
> The NE¼SW¼ of Section 25 contains federal minerals for which no right to mine is claimed. Croell Redi Mix, Inc. has not obtained a BLM contract for these minerals. Therefore, the NE¼SW¼ of Section 25 is excluded from mining progressions.

The legal description is accurate and complete, and it is consistent with the legal description for the Land Quality Permit. A typographical error mistakenly identified the NW¼NE¼ of Section 25, Township 52 North, Range 62 West on the first page. However, the complete description of the land on Table C-1 of the application fully notifies the public of the area at issue. Additionally, the aerial photograph attached to the application clearly delineates the lands in the NW¼NE¼ of said Section 25 as belonging to Bush. Petitioner Judith Bush had actual knowledge of the area within the Land Quality Permit as well as the identical area which is the subject of the Air Quality Permit by documents on file at the Crook County Clerk's office pursuant to statute. Petitioner Bush has proved herself to be an adept commenter on all aspects of the Land Quality and Air Quality Permits that are sought, and for her to suggest at this point that she is unaware of the actual location of the Rogers Pit permit area is disingenuous. Respondent Croell denies all other allegations set forth in paragraph 2.

3. Requirement of Registered/Certified Mail. Neither the statutes nor the regulations have any requirement of registered or certified mailing. The issuance of the permit was properly and timely mailed. Respondent Croell denies all other allegations set forth in paragraph 3.

4. Terms of the Permit. There is no claim stated or basis upon which Petitioner Bush appears to challenge the terms upon which the permit is issued. Respondent Croell denies all other allegations set forth in paragraph 4.

AFFIRMATIVE DEFENSES

1. Petitioner failed to comment on the legal description during the permitting process and therefore failed to preserve the issue for appeal.

2. Petitioner has failed to state a claim upon which relief can be granted.

3. Petitioner has failed to state any requested relief.

4. Petitioner is not the aggrieved party.

5. Respondent Croell reserves the right to assert additional affirmative defenses after discovery is completed and additional facts are learned.

6. Respondent Croell asserts that the DEQ/AQD's actions complied with the Wyoming Environmental Quality Act, Wyoming Air Quality Standards and Regulations, and other applicable laws and regulations.

Respondent Croell hereby joins in the Department of Environmental Quality's response and incorporates all of the DEQ/AQD's responses by reference.

WHEREFORE, Respondent Croell respectfully requests that the Council uphold the DEQ/AQD's issuance of Permit No. AP-9645 to Croell and deny the Petition for Hearing filed by Judith Bush. Respondent Croell further requests that the EQC take such action as appropriate to correct the permit so that all references to the NW¼NE¼ of Section 25 are changed to be the

NW¼NW¼ of Section 35. Respondent Croell further prays that the Environmental Quality Council enter such further additional equitable relief as the Environmental Quality Council deems proper.

Dated this 14th day of June, 2010.

DAVIS & CANNON, LLP

By: _____

Kim D. Cannon (#5-1401)
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CERTIFICATE OF SERVICE

I, Kim D. Cannon, attorney for Croell Redi-Mix, Inc. in the above-entitled and numbered cause, do hereby certify that on the 14th day of June, 2010, I caused a true and correct copy of Croell Redi-Mix, Inc.'S Response Pursuant to the Order of the Environmental Quality Council Directing a Response to the Appeal Filed by Judith Bush in this Matter as follows:

Nancy Vehr Sr. Asst. Attorney General Wyoming Attorney General's office 123 Capitol Building Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered
John Corra Director, DEQ Herschler Building, 122 West 25th Street Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered

Robert Gill Air Quality Acting Administrator Herschler Building 122 West 25th Street Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered
Gina Johnson Air Quality Division Herschler Building 122 West 25th Street Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered
Kim Waring Environmental Quality Council Herschler Building 122 West 25th Street Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered
Judith Bush P.O. Box 861 Sundance, Wyoming 82729	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered
Roger Croell Croell Redi-Mix, Inc. P.O. Box 1352 Sundance, WY 82729	[X] [ ] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered

Kim D. Cannon

Exhibit 13

EQC Docket 10-2803
Judith Bush

Judith Bush's Addendum to Petition for Hearing dated August 11, 2010

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
EQC DOCKET 10 - 2803

AMENDED PETITION FOR HEARING BEFORE EQC
consisting of:

1) **Addendum to Judith Bush's Petition for Hearing dated May 14, 2010 Addendum is dated August 11, 2010)**
2) **copy of Judith Bush's May 14, 2010 Petition for Hearing** *(previoulsly filed with EQC)*

August 11, 2010

ADDENDUM TO JUDITH BUSH'S PETITION FOR HEARING BEFORE EQC (dated May 14, 2010)

I, Judith Bush, acting Pro Se, in addition to and / or complementing issues already raised in my May 14, 2010 Petition for Hearing, add the following:

I would like to begin by stating that I am not an attorney, nor am I represented by an attorney at this time, although I have considered such representation.

Nature of the Public Hearing before the EQC
My understanding is that my May 14, 2010 Petition for Hearing has triggered a process which, if not derailed, will result in a Contested Administrative Public Hearing before the Environmental Quality Council .

I am asking for clarification on this point because several times during the the Per-Hearing Scheduling Conference which took place by telephone on August 2, 2010, this hearing was, I believe mistakenly, referred to as a "trial".

My understanding is that the rules, regulations and statutes which define and govern the procedural aspects of the upcoming Administrative Contested Public Hearing, are the same rules, regulations and statutes which governed the December 21, 2009 contested administrative public hearing concerning LQD issues relating to the same expanded Croell Redi-Mix limestone mining and crushing operation at that company's Rogers Pit / Quarry location and that the primary difference between these two contested administrative public hearings will be that, whereas matters relating to Land Quality concerns, procedures and jurisdiction were front and foremost at the December 21, 2010 public hearing, matters relating to Air Quality concerns, procedures and jurisdiction will be front and foremost at the upcoming Administrative Contested Public Hearing. I am asking for clarification if am incorrect regarding anything I have stated in this paragraph.

It is unfortunate that the DEQ public process regarding the issuing of mining permits is set up in such a manner that by the time the public is brought into the picture, the time when informative back and forth discussion could have occurred is past, and the DEQ and the public are already in adversarial positions. Nevertheless, the DEQ is a

branch of government, and as such has responsibilities to the public which demand that the ignorance of the public, myself included, regarding legal matters is not exploited either by the DEQ or the EQC.

If you read my May 14, 2010 Petition for Hearing before EQC , you will note that in that petition I was requesting any information and / or explanations from AQD which might have made a hearing before the EQC in this matter unnecessary. Ms. Vehr's June 11, 2010 response to my May 14, 2010 Petition for Hearing was singularly unhelpful in this regard.

I have reviewed my My May 14, 2010 Petition for Hearing before the EQC and it is my opinion that all assertions raised therein are valid, reasonable, and germane.

I understand that many matters relating to Air Quality Permits are technical beyond my expertise. At this time I am reserving the right to call expert witnesses if these can be found in the time available.

Ms. Vehr has sent me a CD which contains various documents relating to this matter. In addition to documents listed on the web pages of the EQC Docket 10-2803, this CD includes 194 pages, including previous correspondence from me. I reserve the right to refer to any of the matters contained on that CD, including AQD related matters in correspondence of mine.

I do not believe, as was stated at the August 3, 2010 scheduling conferencce that matters raised in my original objection letter to AQD (dated November 2, 2009) in response to pubilc notice cannot be raised at the upcoming hearing because I did not mention that letter in my May 14, 2010 Petition for Hearing. (In fact I did mention that letter, however, I mistated the date as December 2, 2010.)

There are also matters contained in my December 5, 2009 objection letter to LQD (as well as my December 7, 2009 letter correcting an error regarding a date in that December 5, 2009 objection letter) in response to their public notice which have bearing on Air Quality related issues.

Difficulties posed to members of the public who are required to participate multiple times in meetings and hearings, each dealing with limited aspects of the particular mining project under consideration is a concern to me Even the EQC gets things mixed up in this regard. [1] It is no wonder that the public is confused.

Additionally, the lack of communication between the various divisions of the DEQ (in this case the Land Quality Division and the Air Quality Division, allow mine operators, who are familiar with the differing rules and regulations of LQD and AQD to essentially game the system to their advantage.

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1 The December 17th, 2009 Pre-Hearing Conference Order issued by the EQC stated that, "The Department of Environmental Quality, Air Quality Division (DEQ) appeared by and through Senior Assistant Attorney General, John Burbridge." This conference concerned the Land Quality Division of the DEQ, not Air Quality Division.

There appears to be no follow-up between the divisions to make sure that necessary permits from other DEQ Divisions are obtained by a permittee. One Division can justify their action or lack of action on the basis of ignorance of what the other Division has permitted, and this can result in situations which are inconsistent with the intent of the Environmental Quality Act and with the intent of the rules and regulations of the various divisions of the DEQ which are promulgated from the Environmental Act.

There have been what I consider to be an excessive number of DEQ AQD permits issued for the Rogers Pit since 2007, bearing in mind that this was a 10 acre minesite with a maximum production of 100,000 tons / year (according to Air Quality Permit CT-4526, which remained in effect until superseded by Air Quality MD-9645 on March 17th of this year. It is hard to understand why a few red flags were not raised at AQD when requests for additional AQD permits pertaining to this site kept coming.

I will briefly summarize the Air Quality Permits which have been issued relating to limerock mining and crushing operations at the Rogers Pit location. Some LQD information is necessary for context, and has been included when necessary.

Chronology of AQD permits issued to Croell Redi- Mix for its limerock mining operations at its 10 acre LQD designated LMO minesite (1396 ET) (alternatively defined by Air Quality Permit CT 4526)

<u>These Air Quality permits (excepting CT 4089), give location as NWNE Section 25, T52N R62W</u>

Oct 17 / 07	**AP 5468**	**Forms AQD MN-1 and AQD CS-1** approved as CT 4526 an CT 4527 below	**NWNE Sec 25**
Feb 13/07	**CT 4526**	AQD permit for Pit "5 miles NE Sundance) 10 acre minesite max 100,000 tpy year	**NWNE Sec 25**
Feb 13/07	**CT 4527** *Croell*	portable crushing screening plant	**NWNE Sec 25**
Feb 28/08	**CT 7113** *Bruening*	crushing screening operation permit for Bruening Rock, Inc to operate at 1396 ET (under AQ permit CT 4527) Bruening equipment rated at 1,050,000 tons / year Bruening Rock was not licensed to do business in Wyoming	**NWNE Sec 25**
June 24/08		Croell Redi-Mix LMO 1396 ET 1st annual report 9 acres disturbed / 86,000 tons product produced	
Nov 5 / 08	**LQD NV** *Croell*	Croell Redi-Mix LMO mining had disturbed 20.5 acres (Its LMO permit allowed it to disturb max 10 acres) LQD had not been informed that Bruening was crushing	

LQD Notice of Violation Docket No 4387-98	at the Rogers Pit [2] large scale failure to salvage topsoil was noted on NV
LQD Notice of Violation issued to Croell Redi-Mix for violations at Rogers Pit	Bruening Rock, Inc not registered to do business in WY (see AQD Permit CT 7113 above) Bruening not permitted to continue operating at Rogers Pit. However, LQD agreed to issue an LMO permit to Frost Rock Products, Inc. (to operate on lands owned by Roger Croell) to set up an independent LMO (1461 ET) (see CT 4089 below) immediately adjacent to the Croell Redi-Mix LMO operation (1396 ET), operating side by side but independently with Croell Redi-Mix n the same Pit (Rogers Pit) so that Croell Redi-Mix could supply limerock to Dry Fork [3]
Settlement Agreement	As a part of the Settlement Agreement between the DEQ LQD and Croell Redi-Mix, Croell Redi-Mix agreed to apply to the LQD to expand its L MO mining operation at the Rogers Pit to a Regular Mining Operation, presumably to bring Croell Redi-Mix (retroactively) back into compliance with DEQ LQD Rules and Regulations and by extension with the Environmental Quality Act. [4]

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2 Croell Redi-Mix did not inform the LQD that Bruening Rock, operating under a permit issued by DEQ AQD (see CT 7113 above) was operating its own crushing equipment at the Croell Redi-Mix LMO (13996 ET, under the AQD authority of CT 4525.

Because Bruening Rock was never licensed by the LQD to operate at the Croell Redi-Mix LMO, that company did not file an annual report (which would have provided the yearly production figure for Bruening Rock.

On December 11, 2009, I received a letter from AQD informing me that AQD had no production figures for any of the three companies (Croell Redi-Mix, Inc; Bruening Rock, Inc; or Frost Rock Products, Inc) which had at various times operated in the Rogers Pit on land owned by Roger Croell, CEO of Croell Redi-Mix, Inc.

3 This information is from LQD document "Croell Rogers Pit Permitting Chronology, 1396 ET and TFN 5 6/072", compiled by Glenn Mooney (person in charge of Croell Redi-Mix applications at the Rogers Pit), LQD Sheridan, dated December 10, 2009.

note: If Croell Redi-Mix had contracts in place with Dry Fork based on production of its 10 acre LMO at the Rogers Pit (per AQD Permit CT 4526 0 with max production of 100,000 tons / year), it is no wonder that the size of that minesite was found to have exceeded its maximum 10 acre limit by a factor of 2 when the LQD inspection of the Croell Redi-Mix LMO (1396 ET) took place on October 28, 2008, (This inspection resulted in the November 5, 2008 Notice of Violation issued to Croell Redi-Mix by the LQD.

4 On April 13, 2010 two weeks after LQD issued Croell Redi-Mix a Regular Mining Permit to expand operations at its Rogers Pit location, LQD sent Croell Redi-Mix a Notice of Compliance for Notice of Violation, Docket No. 4387-08, dated November 5, 2008, Croell Redi-Mix Limited Mining Operation 1396 ET

Jan 21 / 09	**MD 8685** *Croell*	application to install portable crushing and conveyor equipment, initially at the Rogers Rock Pit in NWNE of Sec 25,T52N R62W; as follows:	**NWNE Sec 25**

max tons /hr	350
average tons / hr	250 tons
max annual production	400,000 tons per year
max 24 hrs / day	
7 days / wk	
52 wks / yr	

A corrected version of MD 8685 was issued to Croell Redi-Mix on September 3, 2009. [5]

Feb 23/09 **CT 4089** a DEQ AQD Portable Facility Relocate /

BLANK

5 MD 8685 stated that it was to supersede Air Quality Permit 4527 relating to other crushing and screening equipment in use at the Croell Redi-Mix LMO. On June 30, 2009, Croell Redi-Mix wrote to AQD stating that they had just realized that MD 8685 had superseded CT 4527, that this had not been the intention of Croell Redi-Mix, and that Croell Redi-Mix wanted both the equipment permitted under CT 4527 and under MD 8685 for use at its Rogers Pit location.

On September 3, AQD wrote Croell Redi-Mix stating that it had never been the intention of AQD to permit only equipment relating to MD 8685, and issued a corrected MD 8685 (also dated September 3, 2009) to include the equipment previously permitted by CT-4527.

NESW Sec 25 [6]

Operate Permit for equipment owned by Frost Rock Products, Inc to be moved to the "
This is for Frost Rock Products, Inc.'s equipment
LMO 1461, but AQD permit assigns to Rogers Pit,
which it thinks is Croell Redi-Mix 10 acre LMO
300 tons / hour - for duration of one year
permit does not say how much product to be produced-
This information is required by WDEQ AQD Standards & Regulations
Chapter 6 Section 2(b)(iii)

June 15 /09 — Croell Redi-Mix annual report 110,896 tons crushed limerock produced between ~ June 09 - June 09

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6 This is the correct legal description of the LMO permit issued to Frost Rock Products on February 17, 2009. (1461 ET).

note Appendix C-1, Table C-1 of the Croell Redi-Mix application to the DEQ LQD to expand its mining operations at its Rogers Pit location (LQD TFN 5 6 / 072 - Now the permit both permitting and governing mining activities at Regular Mine 772) designates the NESW of Section 25, T52N R62W as land for which the Federal government has retained the mineral rights.

This Frost LMO minesite (1461 ET) is (was - it has since been rolled over into the Croell Redi-Mix expanded mining operation at the Rogers Pit - Regular Mine 772) located on lands owned by Roger Croell, CEO of Croell Redi-Mix, and is located immediately south of an adjacent to the Croell Redi-Mix LMO ET 1396.

LQD is not required to provide public notice of LMO permits, and so the public was not informed at the time that this permit had been issued to Frost Rock Products. However, a cover letter mailed to Frost Rock Products on February 17, 2009 informed the company that AQD permits would need to maintained.

Frost Rock Products, Inc did not apply for an Air Quality operators permit for its operations at the Rogers Pit, or if it did, a permit was never issued.

When I visited the AQD in Cheyenne on July 1, 2010, I was told that the only Air Quality permit issued to Frost for its operations at the Rogers Pit was Relocate / Operate Permit CT 4089 described above. If Frost Rock Products had applied for an Air Quality operators permit for its LMO mining operation at the Rogers Pit, I believe that public notice would have been required. In addition, this permit would have stated a maximum annual figure for production.

An inspection of the Rogers Pit (Croell and Frost) was carried out by both DEQ LQD and DEQ AQD on June 25, 2009. Frost was informed by AQD that it needed to apply for an AQD permit. (LQD had informed Frost of the necessity of maintaining an AQD permit in February of 2009.) AQD informed both Frost Rock Products, Inc and Croell Redi-Mix Inc that the permit could either be issued in the name of Frost (which was at the time operating under its own LQD-issued LMO mining permit) or under an expanded Croell Redi-Mix AQD permit. Croell Redi-Mix requested that the permit be issued under Croell Redi-Mix, since that company would be expanding to mine a large adjacent area. It does not seem plausible that Air Quality could, when issuing its permits, issue a mine permit to a n entity other than the entity to which Land Quality had issued its permit for the minesite in the first place.

The next application by Croell Red--Mix for an Air Quality Permit was AP- 9645, which was received by AQD on July 6, 2009. There is no mention of Frost Rock Products, Inc in that application. This application was approved on March 17, 2010 as MD-9645.

(6)

June 25 2009		inspection of Rogers Pit by both AQD and LQD Frost LMO 1461 has not applied for AQD - told needs to apply for one Julie Ewing, Croell Redi-Mix asks that AQD permit Frost LMO 1461 ET under expanded AQD permit for Croell Redi-Mix because operation will be expanding	
Feb. 17, 2010 *date approximate* *report is not dated*		Frost Rock Products, Inc. annual report to Land Quality division for the period Feb 17, 2009 - Feb 17, 2010 annual production reported at 235,000 tons no new salvaged topsoil	
March 17 /10	**MD 9645**	supersedes CT 4527 (see above) 600.07 acre minesite maximum annual production of 500,000 tons.	**NWNE Sec 25** [7]
	note	This permit relates to the 600.07 acre minesite permitted by LQD TFN 5 6/072, issued to Croell Redi-Mix for its expanded operations at its Rogers Pit location on March 31, 2010 The NWNE of Section 25 is not included within the 600.07 acre minesite	
May 15/10	**CT-10033**	start date May 15/10 Portable Facility Relocate / Operate Permit for crushing / screening equipment Rogers Quarry, Sundance Wyoming Duration of operations at Location - intermittently for 20 +years tons / hour 400 total production at new location - 500,000 per year	

All AQD permits issued to Croell Redi-Mix, Inc to date for operations at its Rogers Pit Location contain the same incorrect legal description of regarding the location / site of the mining activity

Mr. Cannon has characterized the incorrect legal description of the location cited on

7 Once again, I do not understand how this error persisted. Nancy Vehr, Office of the Attorney General and attorney for DEQ AQD in this matter, sent me a CD containing information regarding Air Quality AP 9645 / Air Quality MD 9645. Page 22 of the material contained on that CD is an aerial map which makes it clear that the NWNE of Section 25 was not a part of the Croell Redi-Mix minesite, and additionally makes it clear that this land is owned by "Bush" (I was first faxed a copy of this map from AQD on February 7, 2008.

all AQD permits issued to Croell Redi-Mix for its operations at the Rogers Pit (the NW1/4 NE1/4) as a typographical error.

It may be that Croell Redi-Mix submitted incorrect information to AQD when that company first filed applications with AQD for permits for its Rogers Pit location (Applications AQD - MNI and AQD - CSI - Application 5468) in October of 2006).

However, given the documenting information required with AQD permit applications, this does not explain how the error slipped past Air Quality in the first place, nor does it explain the self perpetuation of this error up to and including the Croell Redi-Mix AQD application for (and subsequent approval of) its modified / expanded AQD permitted mining operations at its Rogers Pit / Quarry location (Application 9645 - submitted to AQD on July 6, 2009 (Ap 9645) and approved on March 17, 2010 (AQD Permit MD-9645)

In October of 2006, either Croell Redi-Mix presented accompanying documentation with its initial AQD application (Ap 5468) which supported the incorrect legal description of the (LQD designated) minesite which that company had provided to AQD in its applications (NWNE Section 25 T52N R62W). This would imply something more than a typographical or otherwise careless error. The other possibility is that Croell Redi-Mix submitted accompanying information with their permit applications to AQD which correctly documented the location of the LQD designated LMO minesite (NE1/4NE1/4SW1/4 of Section 25 T52N R62W) and AQD failed to catch the discrepancy between that LQD minesite location and the legal description provided to AQD by Croell Reid-Mix.

In the case of Croell Redi-Mix Air Quality Permit application AP-9645, it is clear that the legal description (NW1/4NE1/4 of Section 25 T52N R62W) provided by Croell Redi-Mix to AQD is not included in the legal description of the 600.07 acre minesite specified in "Table C-I Roger's Pit LAND DESCRIPTION" which provides the legal description of lands contained within the 600.007 acre minesite. Croell Redi-Mix seems to acknowledge this when noting on the application form (AQD-MN1) , " * See attachment (i.e. Table C-1) for further legal description "

In addition, the mineplan map should have been submitted to AQD along with the written mine plan submitted to LQD by Croell Redi-Mix. This map (Map MP-1) shows the footprint of the previous LMO minesite at the Rogers Pit, the boundaries of the expanded 600.07 Rogers Pit minesite, the quarter / quarter land division lines dividing the land into 40 acre parcels and contains clear labeling of the Township, Range and Sections, all of which make it easy to identify the location of the NWNE of Section 25, and to see that this 40 acre piece is not included within the boundaries of the 600.007 acre minesite. (The NWNE of Section 25 is north of the minesite and is bisected by the Rifle Pit Road.)

The authority to designate land contained within minesites belongs to the Land Quality Division of the DEQ, and the AQD can only issue its mining permits pertaining to land so designated by the DEQ LQD. AQD permitted mining activities must take place within LQD designated minesites.

As such, legally , Air Quality has never issued a permit to Croell Redi-Mix to carry out any AQD permitted crushing, screening and other mine-related activities at its Rogers Pit location.

Another way to put this is that Croell Redi-Mix, Inc.'s mining operations at its Rogers Pit location have been ongoing without valid DEQ Air Quality permits in place since 2007.

Please note that I did not say that Croell Redi-Mix mining operations were in fact taking place on the NENW of Section 25 (Bush Ranches property). I said that Bush Ranches' land had been incorrectly designated by legal description on AQD permits issued to Croell Redi-Mix as the location of Croell Redi-Mix mining activities at its Rogers Pit location.

The mineral rights pertaining to NWNE of Section 25 are reserved to the federal government. This forty acre section is bisected by the Rifle Pit Road. I do not know if, down the road, having been designated as a minesite on AQD permits could have any impact , legal or otherwise, on the NWNE of Section 25. .

Another error relating to legal land descriptions

Croell Redi-Mix supplied the following information, contained in the second paragraph of Appendix C-1, Table C-1 Roger's Pit - Land Description. [8]

> " The NE1/4SW1/4 of Section 25 contains federal minerals for which no right to mine is claimed. Croell Redi-Mix, Inc has not obtained a BLM contract for these minerals. Therefore, the NE1/4SW1/4 of Section 25 is excluded from mining progressions. "

Frost Rock Products, Inc.'s LMO 1461 ET was located within the NE1/4SW1/4 of Section 25

Remedies Sought through Petition for Rehearing in this matter

Ms Vehr requested in the pre-hearing scheduling conference on August 3rd, 2010 that I note remedies sought.

I am not sure what remedies a hearing regarding Air Quality issues can provide. I am not sure what issues will be considered germane to challenging an Air Quality Permit which has been issued. [9]

Obviously, the legal land description pertaining to the AQD permit will have to be

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8 The earlier unsigned version of Appendix C-1, Table C-1 Rogers Pit - LAND DESCRIPTION does not contain the paragraph quoted above.

9 My impression is that if AQD plugs the numbers provided to them by the applicant into their equation and does the math right, they are virtually unassailable.

changed. At this time, I do not know what legal requirements this will entail. I certainly want all reference pertaining to all past AQD permits which designate the location of the minesite as the NWNE of Section 25 corrected on the off chance that this could have legal implications down the road. Once again, I do not believe that it is reasonable to attribute this mistake to typographical error.

I have continued in my efforts for two reasons. The first is that I oppose this mining project. Although in the past I visited Sundance every year, family matters have prevented me from making yearly visits, and for more than fifteen years my visits have been less frequent. Because I see the country less often, I am acutely aware of the impact that the limestone mining and crushing operations in Crook County are having on the quality of the air we breathe and the regional haze. The 20 % allowable drop in visibility due to permissible particulate matter in the air under the terms of this permit strikes me as excessive.

Our land is divided into two large parcels. Both are located in Crook County and both are negatively impacted by limerock mining and crushing operations which lie adjacent to them. Not only do these operations throw dust into the air, they also cause dust to settle on the ground which is so thick that it rises up in clouds when walking through grassy fields. My concern for the health of our ranch manager who cares for our livestock is genuine. Our ranch manager's concern, as well as my own concern, for the health of our livestock is genuine. My concern for the loss of other viable, non-polluting and sustainable future uses for our very beautiful ranch, uses which could also put tax dollars into state coffers, is genuine. My concern for the loss in monetary value of our ranch is both genuine and justified. My concern for the future of this very special and unique region of the country, which I have loved since I was a child, is genuine. Once again, I do realize that these arguments do not carry great legal weight when it comes to matters relating to mining in Wyoming. However, health and quality of life relate directly to the responsibilities of the DEQ as these are impacted by the environment we live in, and methods of integrating these values into decisions made by divisions of the DEQ as well as by the EQC will have to be factored into the legal equation at some point. I just hope that happens sooner rather than later.

I had determined to ignore what I find difficult to regard as other than a deliberate failure on the part of the AQD to inform arguably the two most determined opponents of the proliferation of limerock mining and crushing operations in Crook County (Judith Hamm and myself) of the issuance of AQD permit MD 9645 to Croell Redi-Mix, allowing for the expansion of its Rogers Pit operation. I had also decided that it was not worth battling AQD regarding its failure to adequately convey the extent of the expansion of this mining operation in public notice afforded this application, by implying that the mining operations were taking place on 40 acres or less when the reality was something quite different.

After noticing that the location of mining activities cited on all AQD permits issued to Croell Redi-Mix for mining operations at its Rogers Pit described lands which were not a part of the LQD designated Croell Redi-Mix minesite (either LMO 1396 or the expanded 600.07 acre Croell Redi-Mix minesite at its Rogers Pit location, and that furthermore, the lands so designated belonged to Bush Ranches, I realized that I had no alternative but to file for an appeal of the this AQD permit..

After going through the various Air Quality permits issued to Croell Redi-Mix and other operators at the Rogers Pit, I also realized that the number and and size of these Air Quality permits are out of all proportion with the 10 acre, maximum 100,000 tons / year mining operation defined by Air Quality CT-4526. Air Quality Division cannot have been unaware of this fact.

It is not surprising that violations of the limits of CT-4526 (and of LMO 1396) occurred given the size of other Air Quality permits issued under CT-4526.. What is surprising is that it seems that violations of permit limitations and failure of mine operators to apply for necessary permits were rewarded by the DEQ (AQD and LQD alike) with additional DEQ mining permits, in some cases to cover the tracks of violations which had taken place. i believe that these circumstances merit scrutiny and perhaps a public inquiry.

I do believe that the possibility of a hot mix asphalt plant being located on this site at some time in the future should be irrevocably deleted from Permit MD 9645.

Mr. Croell testified at the December 21, 2009 Public Hearing before the EQC(EQC Docket 09-4806) that he had no plans to put either a hot mix asphalt plant or a batch concrete plant on the site. Nevertheless these are a part of Air Quality Permit MD-9645.

The public was informed that an additional permitting process was necessary prior to a hot mix asphalt plant being located on this site. However, my understanding after looking through Air Quality explanations and application forms (Permitting of Mining and Quarry Operations - Non Coal) is that , similar to relocatable crushing equipment which has already been issued permits by the AQD, portable hot mix asphalt plants which have already been issued permits may be relocated onto a site which has already been approved to include a hot mix asphalt plant, and that if this is the case, there is no further required public input into this process, which would be essentially a question of paperwork.

I realize that I am answering a question of possible remedy with an explanation of my reasons for not quitting what is clearly an uphill battle. I am presently in the position of having been pushed to appeal the decision of EQC Docket 09-4806 to the District Court level because the EQC refused to hear testimony or to permit me to explain my exhibits, both of which were pronounced irrelevant before having been heard and / or presented.

Since the hearing, after having been refused to right to present testimony is these matters, I have since discovered a letter in DEQ LQD files from Mr. Todd Parfitt, second in command of the DEQ, to Judith Hamm. The letter is dated March 5, 2010. In this letter, without citing sources, Mr. Parfitt incorrectly portrays the circumstances about which I was expressly forbidden to testify and / or to present exhibits at the December 21, 2009 public hearing.

I was neither consulted regarding the correctness of assertions contained in Mr Parfitt's letter prior to it being sent out, nor was I provided with a copy of that letter.

In addition to presenting a false account of events, this letter also appears to impugn my motivations in objecting to the expansion of mining operations at the Croell Redi-Mix Rogers Pit location in the first place

The letter was written at a time when, although the EQC had voted to approve the Croell Redi-Mix permit to expand mining operations at the Rogers Pit, the final version of the EQC's Findings had not been issued and comments of the parties to Proposed versions of that final document (which had been requested by the EQC) were presumably being considered.

Mr. Parfitt's letter contradicts my response to the proposed findings and, once again, was written even as the parties responses were being considered and presumably had the potential to influence the outcome of the December 21, 2009 public hearing into that matter.

After reading that letter, I found it difficult to regard it as other than an attempt (either on the part of Mr. Parfitt or by those who advised him in this matter) by extra-legal means to influence the outcome of a legal matter to which the DEQ (Land Quality Division) was a party.

Other legal errors of the AQD pertaining to the permitting of mining operations in the Rogers Pit.

1) Air Quality Permit CT 7113 was issued to Bruening Rock, Inc on February 28, 2008 to operate its own crushing equipment[10] at the Croell Redi-Mix LMO minesite. Bruening Rock, Inc was not licensed to operate in Wyoming. It is unclear how this company came to be issued an Air Quality permit.

   Croell Redi-Mix, Inc, failed to notify the DEQ LQD that Bruening Rock was operating at its Rogers Pit LMO, as it was required to do.[11] At this time, Croell Redi-Mix held Air Quality Permit CT 4527, permitting its own crushing equipment at its Rogers Pit minesite, which was sufficient to mine limerock up to the limitations places on production by Air Quality Permit CT-4527. .

   In November of 2008, Croell Redi-Mix was issued a Notice of Violation by Land Quality Division for, among other things, having disturbed through mining activities at its Rogers Pit location more than double the maximum of 10 acres which its LMO permit allowed.

2) On February 17, 2009, at the request of Croell Redi-Mix [12] , Land Quality Division issued an LMO permit (1461 ET) to Frost Rock Products, Inc. to

10 rated at a maximum of 1,050,000 tons / year

11 in violation of DEQ LQD Noncoal Rules and Regulations Chap 10 Section 6(b)

12 Croell Rogers Pit Permitting Chronology, 1396 ET and TFN 5 6 / 072 - Dec 10, 2009, page 3 (LQD document)

operate side by side with Croell Redi-Mix in the Rogers Pit. Frost Rock Products was informed in a letter dated February 17, 2009 that it would have to maintain Air Quality and Water Quality permits as well.

Frost submitted a Portable Facility Relocate / Operate Permit to AQD (CT-4089) for his own equipment. This Relocate / Operate Permit gave the correct location for the Frost LMO (NESW Section 25) and stated that it would be operating at "Croell - Sundance" for one year. The fact that Frost Rock Products would be operating on its own LMO at the Rogers Pit was not mentioned. The form stated that the equipment's production rate was 300 tons / hour. However, the line requesting total production at the new location was left blank.

The Frost crushing equipment permitted by an Air Quality relocate / operate permit, had been relocated many times prior to being brought to the Rogers Pit. This is the only relocate form for this Frost equipment that did not supply information relating to total production of this equipment for the duration of its placement at its new location. This information is required by WDEQ AQD Standards and Regulations, Chapter 6 Section 2(b)(iii). However,it appears that AQD overlooked this omission.

On June 25, 2009, both LQD and AQD inspected the Frost and Croell LMO's at the Rogers Pit. Frost Rock Products was informed by AQD that it required an AQD permit to operate at its LMO site. (Frost had been informed of this necessity by LQD in a letter dated February 17 2009.) AQD stated that this permit could be issued either under Frost's LMO or under the Croell Redi-Mix LMO. Croell Redi-Mix requested that the permit be issued under Croell Redi-Mix, since that company would be mining the whole area. I do not know if it is permissible for AQD to designate a minesite issued by LQD to one party (in this case Frost Rock Products) to another party (in this case Croell Redi-Mix, Inc.) In any event, I have seen no evidence that such an AQD permit was applied for either by Frost Rock Products, Inc or by Croell Redi-Mix, Inc. I believe that an AQD operators permit issued to Frost for its operations at its newly permitted LMO at the Rogers Pit would have required public notice. The issuing of LQD's LMO permit to Frost did not require public notice.

I was told when I visited the Cheyenne DEQ AQD on July 1, 2010 that the only AQD permit relating to Frost at the Rogers Pit location was the Portable Relocate / Operate Permit. No other AQD permits were issued to Croell Redi-Mix until MD-9645 was issued on March 17, 2010. I do not believe that AQD followed through on the operating permit for Frost or that any permit relating to Frost's operations at the Rogers Pit was ever issued. Frost Rock Products, Inc. is not mentioned in AP 9645.

The Frost LMO 1461 submitted its first and only annual report to LQD covering

the period between February 17, 2009 and February 17, 2010. [13] The annual report itself is undated. It states that during the period noted above, Frost produced 235,000 tons of crushed limerock.

Throughout this time, neighbors were continually wondering how a 10 acre LMO with a maximum production of 100,000 tons / year could possibly be putting out so much dust and generating so much hauling activity.

The public had no idea of the ground rules regarding mining activities at the Rogers Pit. Evidently the DEQ LQD and DEQ AQD also had no idea what the other was permitting vis-a-vis mining activities at the Rogers Pit.

I apologise for not being able to hone this document. There simply was not adequate time available to present this information more clearly than I have done

I have done my best in the short time available to me to attempt to unravel some of the interlockng complexities of this situation (in which AQD clearly played a role). It is not simple, and will never be sorted out by examining Air Quality issues apart from Land Quality issues and vice-versa.

It is my intention to raise these matters at the upcoming Contested Administrative Public Hearing if I am permitted to do so

Once again, I believe that a public inquiry into matters discussed herein would be appropriate. It has been an onerous task to try to sort out matters which were the responsbilitiy of the responsible branches of the DEQ to have gotten right in the first place.

Judith Bush
PO Box 861
Sundance, WY
82720

August 11, 2010

tel / fax (307) 283-2825 *please phone before faxing*

29 THIS IS A COMPLICATED ISSUE, AND I RESERVE THE RIGHT TO RAISE RELEVANT ISSUES NOT CONTAINED HEREIN, SHOULD I BECOME AWARE OF THEM OR OF THEIR RELEVANCE JB

13 The June 25, 2009 LQD inspection report contains a table stating that the Frost LMO permit was approved on December 12, 2008, as opposed to February 17, 2009. Frost Rock Products signed its application to the LQD for an LMO permit on December 9, 2008. It was received by the LQD Sheridan on January 15, 2009, and approved on paper on February 17, 2009.) Frost's Portable Equipment Relocate - Operate permit says that the equipment was brought in about February 23, 2009

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Directo

5 6/072

Judith Hamm
308 Moskee Road
Sundance, WY

March 5, 2010

LQD
MAR 5 2010
RECEIVED

RE: January, 7 2010 Hamm Email to Governor Freudenthal

Dear Ms. Hamm,

The Governor's Office has asked the Department of Environmental Quality (DEQ) to address to your January 7, 2010 email regarding quarries near Sundance.

The DEQ has responded to many complaints, most associated with dust concerns.

The Land Quality Division (LQD) has received two previous complaints from you which are mentioned in your recent email to the governor. The first complaint was received through the Governor's Office on September 19, 2008. On October 28, 2008 you were provided with a written response from DEQ regarding information on Pete Lien's Hunter Pit on hours of operation, dates of public notice and when the permit was approved. In addition, Mr. Don McKenzie, the LQD Administrator met with you at your home on October 31, 2008 and agreed to participate in a future public meeting to be set up by the County Commissioners. This public meeting on Crook County quarries was held on December 8, 2008.

The second complaint was received via a telephone call on July 24, 2009 regarding your water well. The LQD investigated your water well complaint on August 3, 2009, at which time Mr. Doug Emme installed a seismograph between your home and Pete Lien's Hunter Pit. A blast at the mine was monitored by the seismograph and the ground vibration recorded was under levels associated with structural damage. The LQD did not observe any damage to your home during this investigation. The LQD also reviewed the shot records for the Hunter Pit and found the shots were conducted by a Wyoming certified blaster and the shots were in compliance. During the Croel Redi-Mix EQC Hearing, Mr. Emme testified that there is potential for ground vibrations to affect a well depending upon the size of the shot, the shot load and the distance to a well. Mr. Emme concluded there was no damage to your well related to blasting because shot size, shot load, seismograph monitoring results and shot records all indicated compliance with blasting practices and standards.

Your most recent complaint references the EQC's Croel Redi-Mix mine application hearing held in Gillette on December 21, 2009. On January 14, 2010 the EQC decided to allow the Croel Redi-Mix LQD mine permit to be issued as there was no evidence presented that the LQD did not address a rule requirement.

Your most recent complaint also alleges trespassing at the Croel mine site. The LQD notified both Croel and Bush Ranch that there may be an issue in early 2009. Neither Croel nor Bush Ranch came forward to the LQD with a survey to establish landownership, but rather chose to negotiate over a period of months to resolve their differences. It wasn't until early December that Bush Ranch asserted a trespass to the LQD when negotiations were unsuccessful and had stopped, the mining activity had ceased and the road had been blocked off.

In a separate email to LQD Sheridan staff dated January 13th you requested a copy of a Hunter Pit NOV and referred to an investigation of a blaster at the Hunter Pit. The LQD has not issued a Notice of Violation related to the Hunter Pit nor has there been an investigation of a blaster at the Hunter Pit. All blasting conducted at the site has been found to be under the supervision of a certified blaster.

Regarding your air quality concerns, all new or modified quarries are required to obtain an air quality permit from the Air Quality Division (AQD). As part of the permitting process, the applicant is required to demonstrate that the proposed quarry will comply with all applicable rules and regulations of the Wyoming Air Quality Standards and Regulations (WAQSR).

When the AQD has reached a proposed decision based upon the information presented in the permit application, the AQD advertises the proposed decision in a newspaper of general circulation in the county in which the source is proposed. This advertisement indicates the general nature of the proposed facility, the proposed approval/disapproval of the permit, and a location in the region where the public might inspect the information submitted in support of the requested permit and the AQD's analysis of the effect on air quality.

During the 30-day public notice the public and applicant have the opportunity to provide written comments on the Division's proposed decision. A public hearing may be called if sufficient interest is generated or if any aggrieved party makes a request in writing within the 30-day comment period. After considering all comments, including those presented at any hearings held, the Administrator will reach a final decision and notify the appropriate parties. By statue, the Agency is required to issue a permit if the facility complies with all applicable rules and regulations. Two air quality permits have been issued for rock quarries in Crook County since January of 2008. Both applications followed the process described above.

The WAQSR does require that quarries be located in accordance with proper land use planning as determined by the appropriate state or local agency charged with such responsibility. If counties have restrictions on quarry locations, the applicants will be required to meet the requirement as part of the air quality permitting process.

Wyoming Air Quality Standards and Regulations require consideration of Best Available Control Technology (BACT) in all permitting actions. The Division has considerable experience in permitting these types of operations throughout the state and has determined that application of water and/or dust suppressant is an effective means of controlling emissions from crushing, screening, exposed

acreage and hauls roads, and as such represents BACT for this type of operation. Any equipment located at a quarry will be required to have a separate, valid air quality permit for which BACT will have been applied.

Estimated emissions from activities at the quarries are calculated using approved emissions factors and operational information. Control efficiencies are applied to the emissions to reflect the application of BACT. This is the same methodology used to calculate emissions at large surface coal mines.

The Division generally does not require modeling or monitoring for rock quarries or multiple pits in an area. In previous permitting actions, the Division has modeled coal mines with production rates in the millions of tons per year and the results have demonstrated compliance with particulate matter (PM_{10}) and nitrogen dioxide annual ambient standards. Based on the Division's experience, a properly controlled quarry, as required through conditions of the permit with application of BACT, will not result in an exceedance of air quality standards.

If you have further concerns or questions regarding the quarry mining in and around Sundance please feel free to contact Don McKenzie, Land Quality Division at 307-777-7046 or Chad Schlichtemeier, Air Quality Division at 307-777-5924.

Sincerely,

Todd Parfitt
Deputy Director

cc: Don McKenzie, LQD
Chad Schlichtemeier, AQD
Chris Boswell, Governors Office

17

Exhibit 14

EQC Docket 10-2803
Judith Bush

Department of Environmental Quality's Response to Amended Petition for Hearing

dated August 20, 2010

Page 4 or this document states that:

10) In response to possible allegations in the Addendum relating to the pit location's legal description, DEQ / AQD asserts that Croell's application included the pit location's legal description and maps, which documents speak for themselves. DEQ / AQD further asserts that such descriptions sufficiently appraised the the public with notice or the general area at issue, and the specific pit location.

It is true that Croell's application to AQD (AP-9645) included the minesite's legal description. It also contained (as does Permit MD-9645) an additional ~ 40 acres which are not a part of the pit's legal description .

It was the public who eventually noticed the error in the legal description provided to the AQD by Croell Redi-Mix. In all of the time that Croell Redi-Mix has been operating at the Rogers Pit, maps notwithstanding, AQD never caught and / or corrected this error.

In addition, designating the ~ 40 acres which are not included in the minesite (defined by Appendix C-1 and Table C-1) as the location of mining activities in the Public Notice is both deceptive and misleading, and does not convey to the public the scope of the operation.

(400+ of the 600+ acres within the minesite will be disturbed in this mining operation, which will continue for many years. This is a far cry from the 40 acre minesite which any member of the public reading the public notice provided for this permit application would reasonably assume to be the case.

Nancy Vehr (#6-3341)
Senior Assistant Attorney General
123 Capital Building
Cheyenne, WY 82002
Telephone: (307) 777-6946
Facsimile: (307) 777-3542

Attorney for the State of Wyoming,
Department of Environmental Quality

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 Application No. AP-9645 And DEQ AQD Permit No. MD-9645 Dated March 17, 2010	))))))	Docket No. 10-2803

DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO AMENDED PETITION FOR HEARING

Respondent, the Wyoming Department of Environmental Quality (DEQ)/ Air Quality Division (AQD), by and through the Office of the Attorney General of the State of Wyoming, in response to Judith Bush's (Petitioner) Amended Petition for Hearing Before EQC, responds as follows:

1. The Scheduling Conference held August 3, 2010, established August 11, 2010 as the filing deadline for an amended petition, and August 20, 2010, as the deadline for filing a response. *See* Amended Order (Aug. 11, 2010).

2. By Fax dated August 11, 2010, Petitioner submitted an Amended Petition for Hearing Before EQC. Petitioner's Amended Petition consists of "Addendum to Judith Bush's Petition for Hearing dated May 14, 2010 Addendum is dated August 11 2010)" and "copy of Judith Bush's May 14, 2010 Petition for Hearing (*previously [sic]*

filed with EQC)" (emphasis as in original). *See* Amended Petition for Hearing Before EQC (Aug. 11, 2010). Petitioner's Addendum totals fourteen single spaced typed pages and includes a three page letter dated March 5, 2010, as an attachment. *Id.* at pp. 1-17. Petitioner also includes what appears to be Petitioner's previously filed Petition for Hearing, dated May 14, 2010. *Id.* at pp. 18-22.

3. Petitioner's Addendum states that "in addition to and / or complementing issues already raised in my May 14, 2010 petition for Hearing, add the following[.]" *Id.* at 1. The subsequent fourteen pages include information under the following headings: "Nature of the Public Hearing before the EQC" (*Id.*); "Chronology of AQD permits Issued to Croell Redi-Mix for its limerock mining operations at its 10 acre LQD designated LMO minesite (1396ET)(alternatively defined by Air Quality Permit CT 4526)" (*Id.* at p. 3); "All AQD permits issued to Croell Redi-Mix, Inc to date for operations at its Rogers Pit Location contain the same incorrect legal description of regarding [sic] the location /site of the mining activity" (*Id.* at p. 7); "Another error relating to legal land descriptions" (*Id.* at p. 9); "Remedies Sought through Petition for Rehearing In this matter" (*Id.*); and "Other legal errors of the AQD pertaining to the permitting of mining operations in the Rogers Pit" (*Id.* at p. 12). Petitioner concludes the Addendum by stating, "It is my intention to raise the matters at the upcoming Contested Administrative Public Hearing . . . I believe that a public inquiry into matters discussed herein would be appropriate." *Id.* at 14.

filed with EQC)" (emphasis as in original). *See* Amended Petition for Hearing Before EQC (Aug. 11, 2010). Petitioner's Addendum totals fourteen single spaced typed pages and includes a three page letter dated March 5, 2010, as an attachment. *Id.* at pp. 1-17. Petitioner also includes what appears to be Petitioner's previously filed Petition for Hearing, dated May 14, 2010. *Id.* at pp. 18-22.

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4. DEQ Rules of Practice and Procedure (RPP) require the petition state in ordinary but concise language, "the facts on which the request or protest is based, including whenever possible particular reference to the statutes, rules or orders" that are alleged to have been violated." RPP Ch. 1, § 3(c)(iii).

5. Similar to a civil complaint, a petition must include factual allegations of the essential elements of a claim. *See Id.* Conclusory statements or opinions, in lieu of facts, are inadequate. *See Giacchino v. Estate of Stalkup*, 908 P.2d 983, 985 (Wyo. 1985).

6. Petitioner's Addendum fails to include any reference to any statute, rule or specific permit condition that DEQ/AQD has allegedly violated by issuance of Permit MD-9645.

7. In response to possible allegations in the Addendum relating to permits other than MD-9645, DEQ/AQD admits that such permits speak for themselves and paraphrasing such permits are not allegations of fact which require a response. To the extent a response is required, DEQ/AQD denies. DEQ/AQD asserts that Petitioner is jurisdictionally time-barred from challenging or collaterally attacking such permits. *See* RPP Ch. 1, § 16(a). *See also Chevron U.S.A., Inc. v. Dep't of Revenue*, 155 P.3d 1041, 1043 (Wyo. 2007) (pursuant to the Wyoming Rules of Appellate Procedure, the timely filing of a petition for review is mandatory and jurisdictional).

8. In response to possible allegations in the Addendum relating to DEQ/AQD's public notice of its proposed intent to approve Application AP-9645, and

notice of its subsequent decision, DEQ/AQD admits that it complied with and followed the notice requirements prescribed by Wyoming Air Quality Standards and Regulations (WAQSR) Ch. 6, § 2(m).

9. In response to possible allegations in the Addendum relating to Petitioner's previously submitted verbal and written comments and letters, DEQ/AQD admits that it considered and addressed such comments as reflected in its Decision and in the permit conditions for Permit MD-9645.

10. In response to possible allegations in the Addendum relating to the pit location's legal description, DEQ/AQD asserts that Croell's application included the pit location's legal description and maps, which documents speak for themselves. DEQ/AQD further asserts that such descriptions sufficiently appraised the public with notice of the general area at issue, and the specific pit location.

11. Petitioner's Addendum is vague, ambiguous, and replete with conclusory statements. The Petition fails to provide notice of what legal bearing such statements have on DEQ/AQD's issuance of Permit MD-9645. Therefore, to the extent Petitioner's Addendum, including footnotes and attachments, is deemed to contain any factual allegations, DEQ/AQD denies any allegations not specifically admitted.

12. DEQ/AQD incorporates by reference and realleges the responses in the DEQ Response filed with the EQC on June 11, 2010.

AFFIRMATIVE DEFENSES

1. Petitioner failed to comment on the legal description during the permitting process and therefore failed to preserve the issue for appeal.

2. Petitioner has failed to state a claim upon which relief can be granted.

3. Petitioner has failed to state any requested relief.

4. DEQ/AQD reserves the right to assert additional affirmative defenses after discovery is completed and additional facts are learned.

5. DEQ/AQD's actions complied with the Wyoming Environmental Quality Act, Wyoming Air Quality Standards and Regulations, and other applicable laws and regulations.

WHEREFORE DEQ/AQD respectfully requests this Council uphold DEQ/AQD's issuance of Permit MD-9645 to Croell and deny the Petition for Hearing.

RESPECTFULLY SUBMITTED this 20th day of August, 2010.

FOR RESPONDENT DEQ:

Nancy Vehr (#6-3341)
Senior Assistant Attorney General
123 Capital Building
Cheyenne, WY 82002
Telephone: (307) 777-6946
Facsimile: (307) 777-3542
nvehr@state.wy.us
Attorney for the State of Wyoming, DEQ

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2010, a true and correct copy of the foregoing *Department of Environmental Quality's Response to Amended Petition for Hearing* was served by placing the same in the United States mail, postage pre-paid, addressed to:

Judith Bush
P.O. Box 861
Sundance, WY 82729

Kim D. Cannon
Davis & Cannon, LLP
40 South Main Street
P.O. Box 728
Sheridan, WY 82801-0728

and via email addressed to:

cannon@davisandcannon.com

and via FAX to:

Judith Bush at 307-283-2835

Amanda L. Kraul
Wyoming Attorney General's Office

Exhibit 15

EQC Docket 10-2803
Judith Bush

Respondent Croell Redi-Mix, ` Response to Judith Bush's Amended Petition Dated August 20, 2010

* **This document states that the legal description is accurate and complete. In fact, the legal description is inaccurate in two respects.**

  The legal description contained in the Croell Redi-Mix AQD Permit MD-9645 is beyond complete. In addition to the 600.07 acres described in Table C-1 of the Croell Redi-Mix Regular Mine Permit, the AQD legal description contains an additional ~ 40 acres of land not included in the 600+ acre minesite designated by the DEQ LQD (the branch of the DEQ with the power to designate minesites - a power which the DEQ AQD does not possess). Once again, it is the job of AQD to check these details before recommending the approval of any permit.

  In addition, the legal description states that minerals located in the NESW of Section are federally owned. The NESW of Section 25 is the legal description of lands on which Frost Rock Products, Inc was granted an LMO (1461 ET) by DEQ LQD in February of 2009. It is the ~ 40 acres immediately to the west of the NESW of Section 25 (the NWSW of Section 25) which are federally owned.

* **This document accuses me of trying to make trouble for Croell Redi-Mix by any means possible. The truth is that I am far more concerned with the actions of the DEQ, which essentially allowed Croell Redi-Mix to jump start is operations as a regular mining operation at the Rogers Pit by two years.**

Kim D. Cannon (#5-1401)
Davis & Cannon, LLP
40 South Main Street
P.O. Box 728
Sheridan, Wyoming 82801
Phone: 307/672-7491
Facsimile: 307/672-8955
cannon@davisandcannon.com

Attorney for Defendant
Croell Redi-Mix. LLC

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-9646	)	
DATED MARCH 17, 2010	)	

RESPONDENT CROELL REDI-MIX, INC.'S RESPONSE TO JUDITH BUSH'S AMENDED PETITION

Respondent Croell Redi-Mix, Inc. (hereafter "Respondent Croell"), by and through its undersigned attorney, Kim D. Cannon, of Davis & Cannon, LLP, Sheridan, Wyoming, and responds to Judith Bush's Amended Petition for Hearing Before EQC and the "Addendum to Judith Bush's Petition for Hearing Before EQC" dated August 11, 2010 (hereafter referred to collectively as the "Amended Petition"), as follows:

1. FAILURE TO STATE CLAIM OR REMEDY

The Amended Petition fails to state a claim for which relief may be granted and fails to state a remedy. The Environmental Quality Council (hereafter "EQC") provided leave for Judith Bush to file an Amended Petition for purposes of identifying the claims that she is making and

the remedies that she seeks. She has failed to do that in the Amended Petition in any intelligible way. She states candidly: "I am not sure what remedies a hearing regarding Air Quality issues can provide. I am not sure what issues will be considered germane to challenging an Air Quality Permit which has been issued." (Amended Petition, p. 9) She further admits that she has "continued my efforts to two reasons." The primary reason seems to be a generalized desire to cause trouble for Respondent Croell Redi-Mix, Inc. and oppose the mining project on any basis and through any procedure without identifying the basis of the claim. Such claims should be dismissed.

2. FAILURE TO PROVIDE RESPONDENT NOTICE OF CLAIMS

The Amended Petition should be dismissed for its failure to identify, by any reasonable means, the claims upon which the DEQ Air Quality Permit No. MD-9645 is being appealed. Vague and unspecific complaints do not provide sufficient notice for Respondent Croell to be able to appear and defend. Consequently, Respondent Croell is deprived of notice and due process of the matters at issue by virtue of the Amended Petition. DEQ Rules of Practice and Procedure (RPP) require that the petition state in ordinary but concise language, "the facts on which the request or protest is based, including whenever possible particular references to the statutes, rules or orders" that are alleged to have been violated. RPP Ch. 1, § 3(c)(iii). The Amended Petition should further be dismissed for failure to comply with that Rule.

3. NO STATUTORY OR REGULATORY VIOLATION

The Amended Petition fails to state any statutory or regulatory violation.

4. CLAIMS ON OTHER PERMITS SHOULD BE BARRED

The time for appeal on other permits other than AQD Permit No. MD-9645 have passed, and any challenges to those permits are barred. Complaints concerning the issuance of the Land

Quality Permit which is the subject of the appeal to the District Court in Crook County, Wyoming, Bush v. Wyoming Department of Environmental Quality, et al., Civil Action No. 8016, are outside the scope of this matter. The failure to bring a timely petition on another permit is jurisdictional, and such portions of the Amended Petition that collaterally attack other permits should be dismissed.

5. REITERATION AND INCORPORATION OF ALL RESPONSES TO THE INITIAL APPEAL

Respondent Croell hereby refers to and incorporates all of its responses to the initial appeal filed by Judith Bush in this matter which Response is dated June 14, 2010. All allegations and defenses set forth in that Response are incorporated herein including all responses regarding compliance with notice requirements.

6. GENERAL DENIAL

Respondent Croell generally denies all statements and claims of the Amended Petition not expressly admitted.

7. ADOPTION OF DEQ/AQD DEFENSES

Respondent Croell adopts all defenses asserted by the DEQ/AQD in its responses of August 20, 2010 and June 11, 2010.

8. RESERVATION OF RIGHTS TO ADD AFFIRMATIVE DEFENSES

Respondent Croell reserves the right to add affirmative defenses.

WHEREFORE, Respondent Croell Redi-Mix, Inc. respectfully requests that the Environmental Quality Council deny the Amended Petition for Hearing Before EQC filed by Judith Bush, and further prays that the Environmental Quality Council enter such further additional equitable relief as it deems proper.

Dated this 20th day of August, 2010.

DAVIS & CANNON, LLP

By: _____

Kim D. Cannon (#5-1401)
Attorney for Respondent Croell Redi-Mix, Inc.
40 South Main Street
P.O. Box 728
Sheridan, WY 82801
(307) 672-7491
(307) 672-8911 (fax)
cannon@davisandcannon.com

CERTIFICATE OF SERVICE

I, Kim D. Cannon, attorney for Croell Redi-Mix, Inc. in the above-entitled and numbered cause, do hereby certify that on the 20th day of August, 2010, I caused a true and correct copy of Respondent Croell Redi-Mix, Inc.'s Response to Judith Bush's Amended Petition as follows:

F. David Searle, Presiding Officer	[X]	U.S. Mail
Environmental Quality Council	[ ]	Federal Express
Herschler Building	[ ]	Facsimile
122 West 25th Street	[ ]	Hand-Delivered
Cheyenne, Wyoming 82002	[X]	Electronic Transmission
Nancy Vehr	[X]	U.S. Mail
Sr. Asst. Attorney General	[ ]	Federal Express
Wyoming Attorney General's office	[ ]	Facsimile
123 Capitol Building	[ ]	Hand-Delivered
Cheyenne, Wyoming 82002	[X]	Electronic Transmission
Amanda Kroul	[X]	U.S. Mail
Office of Attorney General	[ ]	Federal Express
Wyoming Attorney General's office	[ ]	Facsimile
123 Capitol Building	[ ]	Hand-Delivered
Cheyenne, Wyoming 82002	[X]	Electronic Transmission
John Corra	[X]	U.S. Mail
Director, DEQ	[ ]	Federal Express
Herschler Building	[ ]	Facsimile
122 West 25th Street, Room 1714	[ ]	Hand-Delivered
Cheyenne, Wyoming 82002	[X]	Electronic Transmission

Steve Dietrich DEQ, Air Quality Administrator Herschler Building 122 West 25th Street, Room 1714 Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ] [X]	U.S. Mail Federal Express Facsimile Hand-Delivered Electronic Transmission
Gina Johnson DEQ, Air Quality Division Herschler Building 122 West 25th Street, Room 1714 Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ] [X]	U.S. Mail Federal Express Facsimile Hand-Delivered Electronic Transmission
Jim Ruby Environmental Quality Counsel Executive Secretary Herschler Building 122 West 25th Street, Room 1714 Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ] [X]	U.S. Mail Federal Express Facsimile Hand-Delivered Electronic Transmission
Kim Waring Sr. Off. Support Specialist Environmental Quality Council Herschler Building 122 West 25th Street, Room 1714 Cheyenne, Wyoming 82002	[X] [ ] [ ] [ ] [X]	U.S. Mail Federal Express Facsimile Hand-Delivered Electronic Transmission
Judith Bush P.O. Box 861 Sundance, Wyoming 82729	[X] [ ] [X] [ ] [ ]	U.S. Mail Federal Express Facsimile Hand-Delivered Electronic Transmission

Kim D. Cannon