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Department of Environmental Quality

**FILED**

OCT 20 2010

Jim Ruby, Executive Secretary  
Environmental Quality Council

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

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

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**DEQ'S MOTION FOR SUMMARY JUDGMENT**

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The Department of Environmental Quality (DEQ), Air Quality Division (AQD), through the Office of the Attorney General, and pursuant to WYO. R. CIV. P. 56 and Environmental Quality Council (EQC) Rules, Chapter II, Sections 3 and 14, hereby moves the EQC for summary judgment in this matter. The DEQ moves for summary judgment on the following four issues as more fully set forth in DEQ's Memorandum in Support of Motion for Summary Judgment submitted herewith:

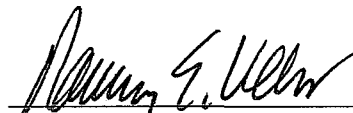
- 1) Whether DEQ/AQD complied with public notice requirements for issuing the permit;
- 2) Whether Croell's application contained a correct legal description of the quarry's location;

- 3) Whether DEQ/AQD has legal authority to limit quarry production and impose Best Available Control Technology (BACT);
- 4) Whether Petitioner has properly raised allegations regarding previously issued DEQ/AQD permits.

WHEREFORE, DEQ/AQD respectfully requests the EQC grant DEQ's Motion for Summary Judgment, dismiss this matter, and order such other relief as may be appropriate.

DATED this 20<sup>th</sup> day of October, 2010.

FOR RESPONDENT DEQ:



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of October, 2010, a true and correct copy of the foregoing *DEQ's Motion for Summary Judgment* 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

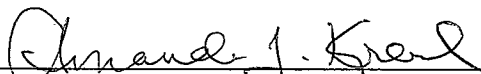
Kim D. Cannon  
Mark Stewart  
Davis & Cannon, LLP  
40 South Main Street  
P.O. Box 728  
Sheridan, WY 82801-0728

and via FAX to:

Judith Bush at 307-283-2835  
Kim Cannon/Mark Stewart at 307-672-8955

and via hand delivery to:

John Corra, DEQ Director  
Herschler Building, 4<sup>th</sup> Floor

  
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Wyoming Attorney General's Office