

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)

DEQ'S MOTION FOR SUMMARY JUDGMENT

EXHIBIT 22

Public Hearing Record

DEQ Bates Nos. 000176 - 000194



CROELL REDI-MIX PUBLIC HEARING

DECEMBER 14, 2009

SUNDANCE, WYOMING

Let the record show that this hearing is being convened at 5:32 pm, December 14, 2009, at the Crook County Library, 414 Main Street, Sundance, Wyoming.

My name is Chad Schlichtemeier. I am the New Source Review Program Manager. John Corra, Director of the Department of Environmental Quality and David Finley, Administrator of the Air Quality Division are unable to be present this evening. However, these proceedings are being recorded and they will review the record since they must approve the final decision on the permit in question. Also present to hear comments are Nick Meeker, to my right here, Air Quality Engineer, and Tanner Shatto, on the end there, District Air Quality Engineer responsible for this area of the state.

This procedure will be conducted as an administrative hearing as provided under Chapter III of DEQ's Rules of Practice and Procedure. This means that this is not a contested case. People offering testimony this evening will not be placed under oath, and will not be subject to cross-examination or to questions from the audience.

To be most helpful to us this evening, your comments should be directed toward considerations which are within the legal jurisdiction of the Department of Environmental Quality. We will not engage in open discussion or rebuttal of issues raised by any participant. The presiding officer and this panel may request additional information or ask questions of any participant.

We are here to receive comments on our advertised proposed decision to grant a permit to Croell Redi-Mix to modify the Rogers Rock Pit, which will include limestone crushing, screening, blasting, exposed acreage, stockpiling, hauling activity, a hot mix asphalt plant and a concrete batch plant, which is located in the NW1/4NE1/4 of Section 25, T52N, R62W, approximately five (5) miles northeast of Sundance, in Crook County, Wyoming.

The hearing notice was published on November 26, 2009 in the Sundance Times paper. The scope of this hearing will be limited to information concerning emissions of air pollutants from the proposed facility into the atmosphere, proposed control technology, and impact of such pollutants on ambient air quality. After all comments have been received, the Department of Environmental Quality will make its decision regarding whether or not the applicable air quality standards and regulations will be met as a result of construction and operation of the facility and whether or not the permit is to be issued or denied as proposed.

I appreciate the interest expressed in the air quality permit system and want to assure you that your statements will be carefully reviewed before final permit decision is rendered.

The record on this matter will close at the end of this evening's public hearing is concluded. Comments received by the Division prior to and during this hearing will be considered in the final decision. This hearing is being recorded by the Air Quality Division. A transcript will be placed in the Division's file in the Cheyenne office in the

Herschler Building at 122 West 25th Street. Anyone wishing to obtain a copy of this record should make arrangements with the Division in Cheyenne.

Before we get started this evening, I want to outline the basic requirements for the issuance of an air quality permit.

Chapter 6, section 2(a) of the Wyoming Air Quality Standards and Regulations requires that any person who plans to construct any new facility or modify an existing facility which may cause the issuance of, or an increase in the issuance of, any air contaminants into the air of this state must obtain a construction permit from the Department of Environmental Quality before any actual work is begun on the facility.

Chapter 6, Section 2(C) of these regulations further states that no approval to construct shall be granted unless the applicant shows, to the satisfaction of the administrator of the Division of Air Quality that:

1. The proposed facility will comply with all rules and regulations of the Wyoming Department of Environmental Quality Air Quality Division, and with the intent of the Wyoming Environmental Quality Act.
2. The proposed facility will not prevent the attainment or maintenance of any ambient air quality standard.
3. The proposed facility will not cause significant deterioration of existing ambient air quality in the region as defined by any Wyoming standard or regulation that might address significant deterioration.

4. The proposed facility will be located in accordance with proper land use planning as determined by the appropriate state or local agency charged with such responsibility.

5. The proposed facility will utilize best available control technology with consideration to the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility.

6. The proposed facility will have provisions for measuring the emissions of significant air contaminants as determined by the Administrator of the Air Quality Division.

7. The proposed facility will achieve the performance specified in the application for a permit to construct or modify.

Pursuant to the above cited regulations, Croell Redi-Mix has applied for a permit to modify the Rogers Rock Pit, as described earlier.

The Division of Air Quality conducted an analysis of the application and on October 1, 2008, (sic) published in the Sundance Times a public notice of the Division's proposed intent to approve the permit application. We also placed a copy of the application and the Division's analysis in the office of the Crook County clerk in accordance with regulations.

As I mentioned earlier, this is not a question and answer hearing. Cross-examination of speakers will not be allowed. We are here to gather information from the public which bears on the question of whether this proposed facility permit application

demonstrates compliance with our standards. If it does, we are obligated under the Environmental Quality Act to grant the permit. Following our evaluation of all comments, we will respond with a written decision. We will mail our written decision to everyone who comments, who provides a legible address to us.

Attendees were requested to sign up as they entered this evening, and to indicate if they wish desired to present a statement.

I will ask first if Croell Redi-Mix wishes to provide any statement which they deem appropriate, then I will use the attendance sheets and call upon other attendees in the order in which they signed up.

Please state your name and address when you start your presentation. Please come forward to the chair here to give your statement in order that the panel can hear you and that we can capture your comments for the record.

Does Croell Redi-Mix wish to make a statement?

Roger Croell

I am Roger Croell from Croell Ready-Mix. I'm the one that started this pit. I have been working on it for several years trying to get this permit intact, and I think we have jumped through all the hoops that we were required to do. Are there some questions about some things? I'll start out on the driveway. The driveway that we were using at first goes through the Bush Ranch, which I never knew about. We had no idea that that was Bush property. So we were using that road, that driveway that goes into this field that I own, goes through about fifty (50) to one hundred (100) feet of Bush property. The

DOT put the driveway in. There was no gate to get into the Bush Ranch from this gate. It was strictly more or less a driveway for my pasture. So I wanted to get exactly where, know exactly where the lines were on my property, so I had Ralph Goodson come out and survey it and he come up and told me; "Roger you're driving across a small portion of the Bush Ranch." So I said "Oh hell". So what I have done is I have talked to the Bush people and they wanted to trade me some property for the access through that, through their property, which I didn't think was fair. So I decided to put a new driveway in, which we have done. We went through all the permitting, we're in the process of finishing up the driveway they were putting in a calvert, which is up to DOT specs, everything is done according to DOT standards. And from our driveway there's been some complaints about the dust on Rifle Pit Road. From our driveway to the blacktop its 586 feet, that we are driving on Rifle Pit Road. We have maintained the road. There sure there are sometimes when it gets a little bumpy but we have a road grater around here all the time and when it gets rough we expect to maintain it, being as how the county doesn't do it all the time. It's actually the county's responsibility but we have the road grater there so we do it ourselves. We have also had some complaints about dust, and I will admit we had some dust problems at the beginning. But we dug a well up by the scale house, and it was for twofold purpose really. It was to water my livestock in that field and to water the road coming in and out of the pit. Now last year we treated the road from the pit three (3) times, we shot the road with chemical three (3) times all the way out to the black top at a cost of \$5000 for it and I had several people call up a

Croell Redi-Mix
AP-9645
Sundance, WY
December 14, 2009
Page 7

few times and complain about the dust and there were several times when they, all they have to do is make a call and we will shut it down. We will shut it down or correct it. And they have done that and we have corrected it we feel. You people also have to remember though that Rifle Pit Road is a gravel road and there is a lot of dust that comes off that road too. I drove down it one day when someone was complaining to me about it and there was as much dust coming off the road as there was off the pit. There have been some complaints about the dust on the hay fields. The nearest hay field is on to this property are my own. And I have made hay on them, my cows seem to eat it. The nearest hay field other than my own is over a half a mile away. I got the map here to show you if you want to look at it. There are, anytime you crush a rock you're going to have a certain amount of dust, I understand that, and we have taken precautions to have a water truck up there at all times. At the end of the, the last person that was crushing in there it was not Croell Ready-Mix it was Frost out of Lovell. They sprayed water on their crusher and on their conveyors to hold the dust down. We are trying to work with people. We received a letter from one of the Bush Ranch owners stating that they think we are going to move into the state property which is directly south of my land. I am not going to do that because I don't have the mining rights to it, someone else in this community has them and I don't think you want to go there because I have nothing to do with it. That has nothing to do with me. There has been a controversy about the amount of water that we would take out of the well that we may dry up the wells. That's not gonna happen, we don't use that much water and if we run short of

water we will go down to my big reservoir down at the house and suck it out of that, that's running over now for the last two (2) years so there is plenty of water there if we want to fill our truck up our water truck up with that. I don't. There's been some complaints about the deer and the elk that are always on this property. Tell you I haven't seen too many of them there only when people chase them. I have never seen elk on this piece of property right here. I have seen tracks but I have never seen them, they come in at night, if they come in. I don't have, oh, asphalt and concrete plants. There are no plans to put an asphalt plant in there. No plans to put a concrete plant in there. When we applied for this permit that was one of the options that they give you so we just included it in there. Why would we, for gods sakes, why would we put a concrete plant in there when we have one five (5) miles away? And an asphalt plan--there is absolutely no, no expectation of ever putting an asphalt plant in there. I can't imagine in what circumstances we would ever do that, but it's just something we applied for. The only other possible way that you would ever do it would be if there was a large asphalt project coming up and someone wanted to set the asphalt plant in our pit. So we just wanted to get it permitted in the event that there would be something come through. I know of nothing at all in the next years that's gonna require a pit. And I'm very sure that if somebody wanted to set an asphalt plant in there, Pete Lien right down the road would be very interested in putting in theirs too. And I think you people would rather have it up in my pit than down at Pete Liens. The six hundred (600) acres that we are talking about, again it's just the size of the field that we did, we just applied for the six

Croell Redi-Mix
AP-9645
Sundance, WY
December 14, 2009
Page 9

hundred (600) acres there's no way that we will ever ever take the full six hundred (600) acres. No way. We will probably take ten (10) acres a year or whatever, I don't know. Depends on the amount of business we have. Basically it's a rock quarry for our own use, and we do sell some byproducts out that we make but it's basically for our own use. There have been some questions about how many tons of material we will take out and the two hundred (200) to five hundred (500) thousand tons was mentioned. Well it's not five hundred thousand (500,000) tons. The first year we were out there it was like twelve thousand (12,000) ton I believe. The second year it was like eighty-six thousand (86,000) tons and then the next year it was a little over a hundred and forty. Basically, its rock for our own use. I don't know of anything else that I want to cover except that I do have, we do have some large maps of the area we show where everyone lives and you folks can see that the prevailing winds generally in this area are southwest, I think. And most of the wind will drag any dust if it is there up towards the interstate. Very, very unlikely that any of you will be affected by any of the dust. If there is any dust which we are going to work on very strongly. So I have no other statement that I guess I want to bring about, but if there is any questions feel free to ask me later. I will be glad to answer them I will spend as much time as you want explaining our position to you.

Chad Schlichtemeier

I got a couple questions now for you Mr. Croell.

Roger Croell

OK.

Croell Redi-Mix
AP-9645
Sundance, WY
December 14, 2009
Page 10

Chad Schlichtemeier

Just so I am clear on the new road, that's going to be, there is 586 here to Rifle Pit Road?

Roger Croell

No, my new driveway comes out right here. This is the old driveway. It was going through actually this line should be up there we were going through about 100 feet. That's where the survey markers were. Now this new road, new driveway comes in right here on Rifle Pit Road and from there over here to this here to the asphalt its 586 feet.

Chad Schlichtemeier

So when you're hauling out you basically...

Roger Croell

We go out, that's the only way in and out right through that driveway. There has also been some question about trucks not stopping at the stop sign, at our stop sign. I don't know. I have never seen one of them not do it but I'm sure there are some of them may go through the stop sign. I can't control every trucker. We have talked to them. We said look you stop at the stop at the stop sign we don't want any accidents. But the truth of the matter is, when you're up here you can see anything coming down Rifle Pit Road. So there shouldn't be any accidents there.

Chad Schlichtemier

So when you did your three (3) applications what area was treated?

Roger Croell

Everything was treated from the asphalt to the north, straight up, clear into the pit.

Chad Schlichtemier

What is the name of the asphalt road up here?

Roger Creoll

That's old Highway 14.

Chad Schlichtemier

And what is the size of your mine that you have applied for in your Land Quality permit?

Roger Creoll

I believe it was six hundred (600) acres, that's the size of this field that were in.

Chad Schlichtemier

So you applied for the whole field with your Land Quality permit?

Roger Creoll

Yes we did.

Chad Schlichtemier

OK, thank you.

Roger Creoll

That's it. OK.

Chad Schlichtemier

Thank you Mr. Croell. Bush Ranches, is there a spokesman? Did you want to make a statement or...?

Dewey Turbibille

I'm Duey Turbibille, manager of Bush Ranches. We neighbor right across the fence from the gravel pit. There is, last year I drove across my grass fields or grass land with four-wheeler and pick up, and the dust just billered right up borrowed behind my four-wheeler and pick up. We run cattle in there during the winter time, lot a times in the spring, sometimes during the summer time. They eat the grass and if the grass, dust is bad as it was last summer I'm afraid they're going to be getting grass tetany from them. Also we got hay hills, like Roger said, a half a mile from the pit and if I have tractors sitting up there on the grass fields or the hay fields just over night or a day you can just wipe the dust off the tractors when the wind is blowing the right way. We also have a well probably about a half mile away across the Rifle Pit Road from it. And the ice on the tank in the winter time will be brown from the dust that coming off the crusher, and gravel pit. Or off the road it's both of them. And there's far as the road is sometimes it is so dusty down there you can't see if someone's coming after a gravel truck has went out or came in. And there's been a lot of close accidents of the gravel trucks hauling gravel out of that road cause they were not stopping. They almost hit cars, they ran cars off the road. I have seen pickups come out of there--they came out right in front of me and that was out of the old road I don't know how the new road will be. But there is a blind spot on the new road too coming up. I guess that's all I have to say.

Chad Schlichtemier

Ok Thank you. I just want to make sure I got your name here its Dewey Turbibille.

Dewey Turbibille

And its D E W E Y.

Chad Schlichtemier

Leal? I'm sorry.

Les Turgeon

Les Turgeon. I live off Rifle Pit Road. Out of the correspondence that they had from the environmentalists is really confusing. Sometimes it almost makes it think like anybody object to what's going on and they have already approved the permit that we're the bad guys. But on that, I guess one of the biggest questions I had and I guess Roger can answer by withdrawing into that is a concrete plant and the blacktop plant. Because the minute we do this as close as they are to Sundance creek we got a pollution problem possibly for water. There's that whole area is full of caverns when you drill in it. If you look on the west side of the interstate right there the water flows out through Rogers place on the other side it goes underground where all this pollution goes under ground is anybody's guess. Is it going to affect the Bush Ranch well? My well, my spring? In ten (10) years down the road if they put all this stuff in they gonna affect sand creek down there which is one of the prime fishery areas in the state of Wyoming. Where does all this water go under there? I think there are a lot of questions that need

to be answered before they put plants and everything, so if Roger is saying this isn't part of it, then I would recommend doing the maybe withdraws so we don't have to worry about it. The traffic problem is a problem there, even with the new road. And I understand that Roger can't control all of that, but we have had problems when big trucks turn there, they are on the wrong side of the road. I turn in the driveway the other day with a trailer, one of them was in the middle of the car gate and I couldn't get off the road, he couldn't get on the road and there was traffic coming. We had a big bottle up. And I don't know for sure how we solved that, but I understand Roger can't solve all that but some of these needs to be communication there. Or somebody is gonna get hurt. I would also recommend to Roger while he's rebuilding this road, that I don't know if it's county or state project that works on that but we need to get some drainage there. Because when all that water runs down that first quarter mile of road is a mess. As your rebuilding it, so we got a drainage problem there that needs to be addressed. Those are just a few things. You know as this air we talked with air we got people in the area that's on oxygen full time and health problems, and we need to take a look at this. Because it just a health problem you know these are the things that should be answered before this permit is issued. One of the things, one of the letters I received indicated that I was against Rogers application, and that is false. I am not against his application, I am against the Quality of Air not doing their job after his I don't think their job is to have him fill out an application and you approve it. I think it needs to be looked into at that point and so I am not disappointed in what Roger and his application. I am just disappointed

Croell Redi-Mix
AP-9645
Sundance, WY
December 14, 2009
Page 15

in the Wyoming Quality, Environmental Quality not looking at the rest of people's concerns, so before they approve it and they have already recommend approval, so.

Chad Schlichtemeier

Ok, thank you.

That's all I have indicated today wish to make a statement, has anybody had a change in mind? I guess that nobody raising their hand I am going to close this hearing at 6:00. After we have gone through all the comments we will be issuing a written decision on this permit. We will provide a response to our comments and decision to everybody who provided comments and a legible address to us. Thank you for attending.

PUBLIC HEARING

APPLICANT Croell Redi-Mix LOCATION Sundance, WY AP# 9645 DATE 12/14/2009

Please Print YOUR NAME	NAME AND MAILING ADDRESS OF COMPANY OR ORGANIZATION	STATEMENT			
		YES	NO	ORAL	WRITTEN
Brian Marchant	Croell R/M P.O. Box 1352 Sundance		<input checked="" type="checkbox"/>		
Jillie Ewing	Croell R/M " "		<input checked="" type="checkbox"/>		
Roger Choell	CROELL R/M " "		<input checked="" type="checkbox"/>		
Dennis M ^{rs} Gurr	P.O. Box 149 Beulah WY 82712		<input checked="" type="checkbox"/>		
Doug Watson	670 Moskee Rd Sundance WY 82729		<input checked="" type="checkbox"/>		
Mark Rogaczewski	Wyoming DEQ/LAD 1866 S. Sheridan Ave Sheridan WY 82801		<input checked="" type="checkbox"/>		
Edwin Rusk	Quality gas + const		<input checked="" type="checkbox"/>		
^{Denny Turbinille} Buster Burcher	Sundance WY Box 461	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Peggy Turbinille	P.O. Box 861, Sundance, WY 82729				
Roger Ferguson	P.O. Box 314 Beulah, WY 82712				
Joe Ferguson	P.O. Box 314 Beulah WY 82712	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Tanner Shatto	WYDEQ/AQD Sheridan		<input checked="" type="checkbox"/>		
Beri M ^{rs} Gurr	P.O. Box 1430, Sundance, WY 82729		<input checked="" type="checkbox"/>		
Miles Bennett	Wyoming DEQ/LAD 1866 S. Sheridan Ave Wyo		<input checked="" type="checkbox"/>		
Phyllis Watson	171 Moskee Rd Sundance				
Denny Turbinille					

125

Croell Redi-Mix – AP-9645

Ms. Judith Hamm
308 Moskee Road
Sundance, WY 82729

Mr. and Mrs. McGee
114 Jx Bar Lane
Sundance, WY 82729

Mr. and Mrs. Wheeler
360 Moskee Road
Sundance, WY 82729

Mr. Douglas M. Watson
670 Moskee Road
Sundance, WY 82729

Mr. Levi Delp
5254 Fuller Road
Sundance, WY 82729

Mr. and Mrs. Turgeon
725 Rifle Pit Road
Beulah, WY 82712

Ms. Judith Bush
2313 County Road 64
Carrying Place, Ontario
Canada K0K 1L0

*Also wants copy faxed to 613-392-2313 (call before sending)

Mr. and Mrs. Johnson
300 Moskee Road
Sundance, WY 82729