

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

FILED
JUL 17 2012

**IN THE MATTER OF THE OBJECTIONS)
TO THE SMALL MINE PERMIT OF)
CROELL REDI-MIX, INC., TFN 5 1/189)**

Docket No. 12-4802

*Jim Ruby, Executive Secretary
Environmental Quality Council*

ORDER OF DISMISSAL

This matter having come before the Environmental Quality Council on the Motion to Dismiss Selected Parties submitted by the Applicant Croell Redi-Mix, Inc., [Croell] and the Council, having considered the submissions of the parties and being fully advised in the premises hereby FINDS and ORDERS as follows:

I. FINDINGS

1. Pursuant to WYO. STAT. § 35-11-406(j), public notice of Croell's application for a mining permit in Johnson County, Wyoming (TFN 5 1/189) was published in the Buffalo Bulletin, a newspaper of general circulation in the locality of the proposed mining site once per week for four (4) weeks beginning on April 19, 2012.
2. Pursuant to WYO. STAT. § 35-11-406(k), letters objecting to the permit application were submitted by Protestants Troy and Hanna Ehrmantraut, Jacob Gay, Fred Mathews, Steve Wurthier, Dan Gay, Jerry Ruby, Larry Brannian & Family, Chuck & Jody Evitt, and Cory Jensen.
3. By letters dated May 11, 2012, the Protestants were notified that the Environmental Quality Council (EQC) considered the Protestants letters to be objections to the issuance of the permit and informed the Protestants that the matter would be set for hearing before the EQC as a contested case hearing.
4. Pursuant to WYO. STAT. § 35-11-406(k) and with the stipulation of the Protestants, DEQ, and Croell, the matter was set for hearing on July 12, 2012.
5. On June 18, 2012, the EQC issued its Notice of Hearing and Order providing notice to the parties of the hearing date and location, and that a prehearing conference would be held on June 22, 2012 at 3:00 via telephone conference. The parties were ordered to inform the EQC office of a direct telephone number by which they could be reached for the prehearing conference and were informed that the purpose of the prehearing was to

identify witnesses and the substance of their testimony, to clarify both the substantive and procedural issues, including identification of the statutory and regulatory bases of the objections, to stipulate to uncontested facts, the marking and identification of exhibits, and motions. *Id.* The Notice of Hearing and Order also informed the parties that “Failure to appear at the prehearing conference may result in dismissal from the case.” *Id.*

6. On June 18, 2012 Cory Jensen withdrew his objection.
7. On June 22, 2012, the prehearing conference was held. DEQ, Croell, Ehrmantrauts (through counsel), Jacob Gay and Fred Mathews were the only parties in attendance.
8. The parties agreed that issues considered at the hearing would be limited to those encompassed by WYO. STAT. § 35-11-406(m)(viii).
9. Protestant Jacob Gay informed the parties at the prehearing conference that he would not attend the hearing, that he would not present witnesses or testify on his own behalf, and would not submit any exhibits.
10. Protestant Fred Mathews informed the parties at the prehearing that he would attend the hearing by telephone, if available, and testify on his own behalf, but would not attend in person, and would not present any witnesses or exhibits.
11. On June 29, 2012, Ehrmantrauts withdrew their objection to issuance of the permit.

II. CONCLUSIONS

The June 18, 2012 Notice of Hearing and Order informed all parties that failure to appear at the June 22, 2012 prehearing conference may result in dismissal. This notice was provided to all parties who submitted comments on the proposed permit. All parties failing to appear at the prehearing and the final hearing having been dismissed and all other parties having withdrawn their objection to the permit the above entitled cause is DISMISSED

DATED this 17th day of July, 2012.



David Searle, Hearing Officer 12

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 17th day of July, 2012, I served a copy of the foregoing ORDER OF DISMISSAL by electronic mail to the following:

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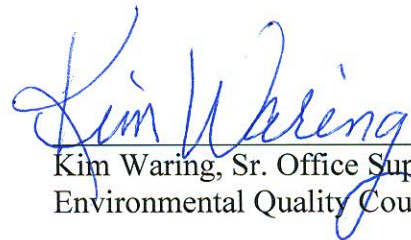
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