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FILED

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Jim Ruby, Executive Secretary
Environmental Quality Council

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

**IN THE MATTER OF THE OBJECTIONS)
TO THE SMALL MINE PERMIT OF) Docket No. 12-4802
CROELL REDI-MIX, INC., TFN 5 1/189)**

(Proposed) ORDER DISMISSING SELECTED PARTIES

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. Pursuant to the General Rules of Practice and Procedure of the Environmental Quality Council, Section 9(b), the Stipulated Agreement for Final Hearing arising from the prehearing conference controls the hearing in the matter. That Agreement limits the witnesses and exhibits to be presented at the hearing to those identified by the parties in attendance at the prehearing conference. Pursuant to the Agreement, Fred Mathews is the only Protestant who has indicated that he will present any evidence in opposition to the Permit.

THEREFORE, pursuant to the Agreement and Section 9(b) of the Rules of Practice and Procedure, Protestants Jacob Gay, Steve Wurthier, Dan Gay, Jerry Ruby, Larry Brannian & Family, Chuck & Jody Evitt are hereby DISMISSED from the action. Additionally, they have withdrawn their objections, Protestants Cory Jensen and Troy and Hanna Ehrmantraut are hereby DISMISSED from the action.

DATED this ____ day of July, 2012.

David Searle, Hearing Officer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this _____ day of July, 2012, a true and correct copy of the foregoing was sent by electronic mail to the following:

John Corra
Director, DEQ
John.corra@wyo.gov

Luke Esch
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Nancy Nuttbrock
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also by depositing the same in the United States mail addressed to:

Steve Wurthier
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Buffalo, WY 82834

Dan Gay
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Jerry Ruby
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