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**BANGS McCULLEN**  
— LAW FIRM —

Bangs, McCullen, Butler, Foye & Simmons, L.L.P.

**Reply to Rapid City Office**

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April 8, 2016

**Sent by U.S. Mail and Facsimile**

Ms. Jeanné Goodman, Chief Engineer  
Department of Environment and National Resources  
Water Rights Program  
Foss Building  
523 East Capitol  
Pierre, SD 57501-3182

**Re: *In the Matter of the Application of Croell Redi-Mix  
Application No. 2745-2***

Dear Ms. Goodman:

Please find enclosed the original *Petition Opposing Water Application No. 2745-2 and Requesting Continuance of Hearing* in the above-referenced matter. A copy of this document has been sent to Attorneys Brady and Pluimer, and to the Applicant, which is intended as service by U.S. Mail.

If you have any questions or comments, please advise. Thank you.

Sincerely,

BANG, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

  
Michael M. Hickey

MMH:bah

Enclosure

cc: Clients  
Eric Gronlund  
Richard Pluimer  
Thomas Brady  
Croell Redi-Mix



[www.bangsmccullen.com](http://www.bangsmccullen.com)

**STATE OF SOUTH DAKOTA**  
**BEFORE THE WATER MANAGEMENT BOARD**

**IN THE MATTER OF THE  
APPLICATION OF CROELL REDI MIX,  
APPLICATION NO. 2745-2**

**Petition Opposing Water  
Application No. 2745-2 and  
Requesting Continuance of Hearing**

Comes now Duane Abata, Don Burger, Pat Hall, and Barrett Wendt ("Petitioners"), by and through their attorneys, Michael M. Hickey and Kelsey B. Parker of Bangs, McCullen, Butler, Foye & Simmons, L.L.P., and respectfully submit the following to the Water Management Board:

1. Petitioners are neighboring landowners currently utilizing the Deadwood Aquifer for their water needs.
2. On or about January 27, 2016, Croell Redi-Mix, applied for a water permit with the State of South Dakota.
3. The point of diversion is: NE1/4SW1/4 Section 9 T1S R7E.
4. The water permit would be for the construction of new water well primarily used for industrial use.
5. The well would produce water for a limestone crushing plant.
6. On April 1, 2016, the Chief Engineer recommended approval of Water Application No. 2745-2.
7. In the notice published in the newspaper, Croell Redi-Mix indicated that it would appropriate 19.6 acre feet of water annually at a maximum diversion rate of 0.33 cubic feet of water per second from one well to be completed into the Deadwood Aquifer.
8. The proposed permit is not in the public interest and would result in an unlawful impairment of existing rights.

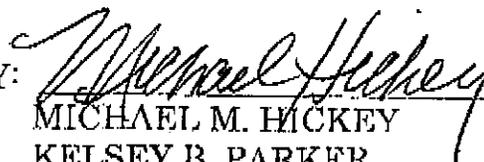
9. Upon information and belief, there is not a sufficient amount of unappropriated water available in the Deadwood Aquifer for Croell Redi-Mix's proposed industrial use.

**WHEREFORE**, Petitioners respectfully **OPPOSE** the approval of Water Application No. 2745-2 and request that the hearing tentatively set for May 4-5, 2016 be continued in order to allow Petitioners additional time to prepare to present evidence and testimony in opposition to the application and otherwise prepare for the hearing in this matter.

Dated this 8<sup>th</sup> day of April, 2016.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

BY:



MICHAEL M. HICKEY

KELSEY B. PARKER

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[kparker@bangsmccullen.com](mailto:kparker@bangsmccullen.com)

ATTORNEYS FOR PETITIONERS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served a copy of this legal document upon the persons herein next designated, all on the date below shown, by facsimile and by depositing copies thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in envelopes addressed to said addressees, to wit:

**Jeanne Goodman, Chief Engineer**  
WATER RIGHTS PROGRAM  
Foss Building  
523 East Capitol  
Pierre, SD 57501  
Facsimile: (605) 773-4068

**Eric Gronlund**  
WATER RIGHTS PROGRAM  
Foss Building  
523 East Capitol  
Pierre, SD 57501  
Facsimile: (605) 773-4068

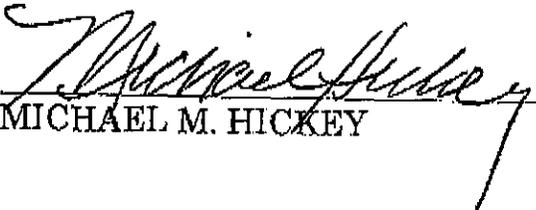
**Richard Pluimer and Thomas Brady**  
BRADY PLUIMER, P.C.  
135 E. Colorado Blvd  
Spearfish, SD 57783  
*Attorney for Croell Redi-Mix*  
Facsimile: (605) 722-9001

and by depositing a copy thereof in the United States mail at Rapid City, South Dakota, postage prepaid, in an envelope addressed to said addressee, to wit:

**CROELL REDI-MIX**  
c/o Kyle Frisinger  
P.O. Box 1352  
Sundance, WY 82729

which is the last address of the addressee known to the subscriber.

Dated this 8<sup>th</sup> day of April, 2016.

  
MICHAEL M. HICKEY