

Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

April 21, 2008

Mr. Gary Garland
Hot Iron, Inc.
P.O. Box 1067
Gillette, Wyoming 82717

RE: Notice of Violation

Dear Mr. Garland:

Enclosed you will find a Notice of Violation (NOV) issued to Hot Iron, Inc. by the Department of Environmental Quality for failure to inspect a facility for the presence of asbestos-containing material prior to demolition, failure to provide accurate written notification of a demolition/renovation project to the Administrator and the failure to properly handle asbestos-containing material as required by Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

As the Department and this Division consider the failure to comply with asbestos requirements to be a serious matter, I am considering recommending that the Department refer this violation to the State Attorney General's office requesting a suit be filed in District Court to recover appropriate penalties.

If you would like to discuss settlement of this issue prior to referral to the Attorney General's office, please contact Mr. Robert Gill, Air Quality Compliance Program Manager at (307) 777-3774 no later than ten (10) working days after receipt of this letter.

If you should have any further questions or comments concerning this matter, please feel free to contact me or Mr. Robert Gill.

Sincerely,


David A. Finley
Administrator
Air Quality Division

cc: Mr. Tony Wagner
Ms. Nancy Vehr

Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

IN THE MATTER OF THE NOTICE OF)	
VIOLATION ISSUED TO HOT IRON)	DOCKET NO.
INC. P.O. BOX 1067)	4259-08
GILLETTE, WYOMING 82717)	

NOTICE OF VIOLATION

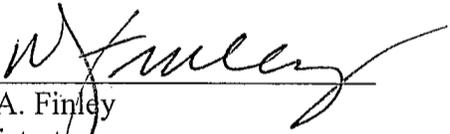
NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality has found Hot Iron, Inc. to be in violation of W.S. 35-11-201 of the Wyoming Environmental Quality Act and Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations as a result of the demolition of the Buffalo Drive In, Buffalo, Wyoming.
2. W.S. 35-11-201 of the Wyoming Environmental Quality Act states, "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council.
3. Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations establishes asbestos emission standards for demolition, renovation, manufacturing, spraying and fabricating that apply to owners and operators of facilities where asbestos renovation/demolition activities are taking place.
4. On March 31, 2008, Mr. Tony Wagner, Asbestos Program Manager, received a complaint concerning the demolition of the Buffalo Drive In Theater. Upon reviewing the notifications for demolitions in Wyoming it was determined that a notification of demolition had not been submitted to the Air Quality Program prior to demolition of the building. Mr. Wagner contacted the owner of the facility, Ms. Betsy Kirven, to determine whether an inspection of the facility for the presence of asbestos-containing material had taken place prior to demolition. An asbestos inspection had not been conducted so Mr. Wagner scheduled an appointment with the owner of the facility and owner of the property where the building debris had been disposed to conduct sampling of the building debris. On April 1, 2008, Mr. Wagner traveled to Buffalo, Wyoming to conduct an inspection of the building debris. The inspection revealed that debris generated from the demolition of the facility did contain materials that tested positive for asbestos fibers.
5. Chapter 3, Section 8(i)(i) of the Wyoming Air Quality Standards and Regulations states, "To determine which requirements of paragraphs (i)(i), (i)(ii), and (i)(iii) apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II non friable ACM." Based on information provided an inspection for the presence of asbestos was not conducted on this facility.
6. Chapter 3, Section 8(i)(ii) of the Wyoming Air Quality Standards and Regulations states, "Each owner or operator of a demolition or renovation activity to which this section applies shall: (A) provide the Administrator with written notice of the intention to demolish or renovate." Further requirements in Chapter 3, Section 8(i)(ii) require the notification at least ten working days prior to the start date.

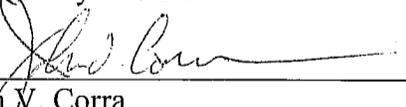
Based on a review of the Air Quality Division's records, notification was not provided prior to the demolition of this facility.

7. Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations states, "Remove all regulated asbestos-containing material (RACM) from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material...." On April 1, 2008, Mr. Wagner did find previously Category II non-friable asbestos-containing material in the building debris. Category II non-friable asbestos-containing material becomes regulated asbestos-containing material during a demolition due to the breaking, crushing, and abrading that takes place. Category II asbestos-containing material is required to be removed prior to demolition of a facility.
8. Said violations consist of: 1) Failure to thoroughly inspect the facility prior to demolition as required by Chapter 3, Section 8 (i)(i); 2) the failure to provide prior written notification of a demolition/renovation project to the Administrator as required by Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations; 3) the failure to remove all RACM from the facility being demolished in violation of Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations.
9. Under W.S. 35-11-901(a), any person who violates any provision of Article 2 of (the Environmental Quality Act)... or any rule, regulation, standard or permit adopted pursuant to those provision, or who violates any determination or order of the council pursuant to Article 2 of (the Environmental Quality Act)... is subject to a penalty not to exceed ten thousand dollars for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.
10. This notice is being sent to you pursuant to W.S. 35-11-701(c), which requires that, in any case of the failure to correct or remedy an alleged violation, the Director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

Dated this 25th day of April, 2008.



David A. Finley
Administrator
Air Quality Division



John V. Corra
Director
Department of Environmental Quality

Please direct all inquiries to David A. Finley, Administrator, Division of Air Quality, Department of Environmental Quality, Herschler Building, 2nd Floor, 122 West 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307-777-3746)