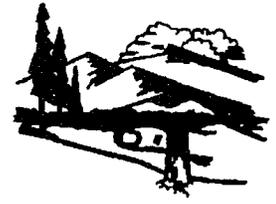




Department of Environmental Quality



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

February 8, 2010

Mr. Tim Scherer
Scherer Construction
6375 W Yellowstone Highway
Casper, WY 82604

RE: Notice of Violation

Dear Mr. Scherer:

Enclosed you will find a Notice of Violation (NOV) issued to Scherer Construction by the Department of Environmental Quality, Air Quality Division, for failing to comply with the 20% opacity limit for the asphalt plant in violation of condition 7 of permit CT-1225. This violation of permit CT-1225 was observed by Mr. Chris Hanify on August 18, 2009.

As the Department and this Division consider the failure to comply with air quality permit conditions to be a serious matter, I am considering recommending 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 Notice of Violation prior to referral to the Attorney General's office, please contact Ms. Karen Godman, Air Quality Compliance Program Principal, at 307-777-8601 no later than ten (10) days after receipt of this letter.

Should you have any questions or comments regarding this matter, please feel free to contact me or Ms. Karen Godman.

Sincerely,

David A. Finley
Administrator
Air Quality Division

cc: Robert Gill
Jennifer Frazier
Chris Hanify
Nancy Vehr
Keith Guille



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

IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO SCHERER CONSTRUCTION, LLC,)
MR. TIM SCHERER,) **DOCKET NO. 4636-10**
6375 W YELLOWSTONE HIGHWAY,)
CASPER, WY 82604)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. The Department of Environmental Quality, Division of Air Quality, has found Scherer Construction, LLC to be in violation of permit CT-1225 issued in accordance with W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the operation of the Asphalt Plant located Natrona County, Wyoming.

2. W.S. 35-11-801 states, "In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards."

3. Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming's construction and modification permitting program.

4. Permit CT-1225 was issued to Western Mobile Northern on June 18, 1996. The facility was acquired by Scherer Construction, LLC on May 5, 1997, at which time all previous permit requirements were transferred to Scherer Construction. Condition 7 requires that visible emissions from all sources associated with the asphalt plant shall not exceed 20% opacity.

5. On August 18, 2009, Air Quality Engineer, Mr. Chris Hanify noted a dust plume rising to the sky from the Scherer Construction Asphalt Plant located in Natrona County, Wyoming. In response to this observation a site visit was conducted and opacity readings of 36% and 40% were measured from the facility. These readings are in excess of the 20% opacity reading prescribed by permit CT-1225.

6. Said violation consists of exceeding the opacity limit of 20% for the Scherer Construction Asphalt Plant in violation of condition 7 of permit CT-1225.

7. 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 provisions, 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 (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

8. 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 10 day of FEB, 2010.



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 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)