



Department of Environmental Quality

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



Matthew H. Mead, Governor

John Corra, Director

September 9, 2011

Mr. Steve Borin,
Fishbor, LLC
107 E 17th Street,
Cheyenne, WY 82001

RE: Notice of Violation

Dear Mr. Borin,

Enclosed you will find a Notice of Violation (NOV) issued to Fishbor, LLC by the Department of Environmental Quality, Air Quality Division, for the failure to comply with Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations in the renovation of the property located at 1609 Central Avenue, Cheyenne Wyoming.

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 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 regarding this matter, please feel free to contact me or Ms. Karen Godman.

Sincerely,

Steven A. Dietrich
Administrator
Air Quality Division

cc: Glenn Spangler
Linda Dewitt
Nancy Vehr
Bob Gill
Keith Guille



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

**IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO FISHBOR, LLC.) DOCKET 4896 -11
MR. STEVE BORIN,)
107 E 17TH STREET)
CHEYENNE, WYOMING 82001)**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

- 1) The Department of Environmental Quality, Division of Air Quality has found Fishbor, LLC to be in violation of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations as a result of the renovation of property located at 1609 Central Avenue, Cheyenne, Wyoming.
- 2) 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 renovation/demolition activities are taking place.
- 3) On June 6, 2011, Ms. Linda Dewitt, Asbestos Program Coordinator, received a phone call from Steve Borin regarding renovation of and the disturbance of suspect floor tile at his property located at 1609 Central Avenue, Cheyenne Wyoming. Mr. Borin explained in lieu of rent, Mr. and Mrs. Stamm (Occupants) were conducting repair work to include cleaning, painting and possibly installing new carpet. He further explained that he had been contacted by a flooring contractor that 9" floor tile and black mastic that had been disturbed might contain asbestos. Mr. Borin immediately stopped work and had the flooring sampled and requested assistance from the Division. On June 9, 2011 a site visit was conducted by Ms. Linda Dewitt, Asbestos Program Coordinator, at which time she noted that approximately 100 square feet of 9" floor tile had been made regulated. Mr. Borin explained that the floor tile had been removed by Mr. and Mrs. Stamm (Occupants) and sample results showed that the floor tile contained asbestos, but the mastic did not. Mr. Borin requested an emergency notification for abatement of this material, which was granted. An inspection was conducted on June 20, 2011 by Mr. Robert Rodriguez, Asbestos Inspector, during this abatement and samples were collected of floor material. Analysis showed the material to contain 18-20% chrysotile asbestos. Discussion with both Mr. Steve Borin and Mr. and Mrs. Stamm indicated that no asbestos inspection had been conducted nor notification filed with the Division prior to the renovation work.
- 4) 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 the information provided, an inspection had not been conducted at the site prior to the renovation.
- 5) 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 intention to demolish or renovate.” Further requirements in Chapter 3, Section 8(i)(ii) require the notification to be provided to the Division 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 renovation of this facility.

6) Said violations consist of failing to: 1) thoroughly inspect the facility prior to renovation, and 2) provide prior written notification of a demolition/renovation project to the Administrator. These are violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

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 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.

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 12th day of SEPTEMBER 2011.



Steven A. Dietrich
Administrator
Air Quality Division



John V. Corra
Director
Department of Environmental Quality

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