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

December 20, 2011

Mr. John Zapata
Midwest Demolition Co.
1935 Yolande Avenue
Lincoln, NE 68521

Re: Notice of Violation

Dear Mr. Zapata,

Enclosed you will find a Notice of Violation (NOV) issued to Midwest Demolition Co. 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 Lingle-Fort Laramie High School in Lingle, Wyoming and Southeast High School located in Yoder, 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

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 MIDWEST DEMOLITION CO.,	)	
MR. JOHN ZAPATA	)	**DOCKET NO. 4938-11**
1935 YOLANDE AVENUE	)	
LINCOLN, NEBRASKA 68521	)	

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found Midwest Demolition Co. 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 renovation of the Lingle-Fort Laramie High School in Lingle, Wyoming and Southeast High School located in Yoder, 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 June 30, 2011, Mr. Robert Rodriguez, Asbestos Program Inspector, conducted an inspection of renovation activity at the Lingle-Fort Laramie High School and was informed of additional renovation work going on at the facility that was not included in the notification received by the Division. Investigation revealed that two laboratory classrooms were being remodeled in another area of the building. The project involved removal of flooring and drywall. The prime contractor, Spiegelberg Lumber subcontracted the demolition portion of the work to Midwest Demolition Company. At the time of the inspection a Midwest Demolition employee was using a jackhammer on the concrete covered with black mastic material. During Mr. Rodriguez's inspection several samples of disturbed suspect material were taken and submitted for laboratory analysis. Sample results of suspect materials were positive for asbestos fibers with percentages ranging from 3%-5% chrysotile asbestos in mastic. On August 25, 2011, Goshen County School District #1 provided a copy of the Management Plan and associated re-inspections which showed the mastic material had been known to contain chrysotile asbestos prior to the start of renovation in the area. The workers conducting the renovation were not trained to properly remove asbestos materials, and no attempt was made to prevent visible emissions from the asbestos-containing material. Wetting was not done to prevent fiber release and materials were disposed of at the Torrington Landfill.

5) On July 5, 2011, Ms. Linda Dewitt, Asbestos Program Coordinator, received a phone call notifying the Division of an emergency clean up involving disturbed material in two laboratory classrooms at Southeast High School located in Yoder, Wyoming. The Division had no notification regarding this project prior to this emergency clean up. Investigation revealed that two laboratory classrooms were being renovated and the project involved removal of approximately 800 square feet of sheet vinyl. The prime contractor, Spiegelberg Lumber subcontracted the demolition portion of the work to Midwest Demolition Company. Midwest Demolition Company disturbed/removed 800 square feet of sheet vinyl. On November 11, 2011, Goshen County School District #1 provided a copy of the Management Plan and associated re-inspections which showed the vinyl sheet flooring in these rooms had been known to contain 30-40% chrysotile asbestos in the backing of this material asbestos prior to the start of renovation in the area. The workers conducting the renovation were not trained to properly remove asbestos materials, and no attempt was made to prevent visible emissions from the asbestos-containing material. Wetting was not done to prevent fiber release and materials were disposed of at the Torrington Landfill.

6) 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 a thorough inspection for asbestos-containing materials of the specific materials to be disturbed was not conducted prior to the start of renovation of the two laboratory classrooms at Lingle-Fort Laramie High School or the Southeast High School.

7) 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 of renovation or demolition activity. Based on a review of the Air Quality Division's records, Goshen County School District #1 failed to submit notification of the laboratory classroom projects at Lingle-Fort Laramie High School or the Southeast High School to the Air Quality Division.

8) 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...." During the Air Quality Division's inspection asbestos-containing mastic and backing material which became RACM was not removed prior to renovation of the two laboratory classrooms at Lingle-Fort Laramie High School or the Southeast High School.

9) Chapter 3, Section 8(i)(iii)(F)(I) of the Wyoming Air Quality Standards and Regulations states, "Adequately wet the [regulated asbestos-containing] material and ensure that it remains wet until collected and contained or treated in preparation for disposal ..." Information gathered indicated that asbestos-containing material was removed while dry and was not kept wet until collected and contained for disposal.

10) Chapter 3, Section 8 (M)(ii)(A) of the Wyoming Air Quality Standards and Regulations states in part, that all asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at an approved waste disposal site. Asbestos containing waste was disposed of at the Torrington landfill as general construction debris.

11) Said violations consist of: 1) failure to inspect the facility for asbestos containing materials prior to the start of renovation in violation of Chapter 3, Section 8(i)(i) of the Wyoming Air Quality Standards and Regulations, 2) the failure to provide prior written notification of a demolition/renovation project to the Administrator as required by Chapter 3, Section 8(i)(ii) of the Wyoming Air Quality Standards and Regulations, 3) the failure to remove all RACM from the facility being renovated in violation of Chapter 3, Section 8(i)(iii) of the Wyoming Air Quality Standards and Regulations, 4) the failure to adequately wet the RACM in violation of Chapter 3, Section 8(i)(iii)(F)(I) of the Wyoming Air Quality Standards and Regulations, and 5) the failure to properly dispose of asbestos containing waste material in violation of Chapter 3, Section 8(m)(ii) of the Wyoming Air Quality Standards and Regulations

12) 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.

13) 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 20th day of DECEMBER, 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 Environemntal Quality, Herschler Building, 2nd Floor, 122 West 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307-777-3746)