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 22, 2011

Mr. Scott Patrick
Patrick Construction, Inc.
PO BOX 926
Lander, WY 82520

Re: Notice of Violation

Dear Mr. Patrick,

Enclosed you will find a Notice of Violation (NOV) issued to Patrick Construction, Inc. 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 water line system at 1799 Elk Street in Rock Springs, 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: Tony Hoyt
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 PATRICK CONSTRUCTION, INC.	)
MR. SCOTT PATRICK, PRESIDENT	) **DOCKET NO. 4940-11**
PO BOX 926	)
LANDER, WYOMING 82520	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found Patrick Construction, 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 renovation of the water line system at approximately 1799 Elk Street in Rock Springs, 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 August 19, 2011, Ms. Linda Dewitt, Asbestos Program Coordinator, observed suspect transite pipe lying by a fence on Elk Street in Rock Springs, Wyoming. Upon further investigation it was found that renovation work involving the removal and replacement of what appeared to be 12 inch diameter transite pipe was proceeding at approximately 1799 Elk Street in Rock Springs, Wyoming. Notification for this project was not received by the Division. Further investigation revealed that this project involved replacing 6000 linear feet of water line along Palisades Way and 2000 linear feet of water line along Elk Street to install new tie-ins and replace existing hydrants. Contact was made onsite with Mr. Patrick of Patrick Construction and information revealed that no thorough asbestos inspection was conducted prior to the cutting and removal of suspect transite pipe. Mr. Patrick indicated that the City had informed him that the lines being replaced contained some asbestos, but was not provided any sample results or given locations of asbestos transite pipe. During this discussion, two employees of Patrick Construction entered the trench and proceeded to use a diamond-bladed saw to cut the suspect pipe in the trench. The prime contractor, Choice Engineering Services, Inc. subcontracted the work to Patrick Construction, Inc. During Ms. Dewitt's inspection a sample of disturbed suspect transite pipe material was collected and submitted for laboratory analysis. The sample result of suspect pipe material was positive for asbestos fibers with 65% chrysotile asbestos. The workers conducting the renovation were not trained to properly remove asbestos materials.

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." A thorough inspection for asbestos-containing materials of the specific materials to be disturbed was not conducted prior to beginning the renovation of the water line system at 1799 Elk Street in Rock Springs, Wyoming.

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 of renovation or demolition activity. Based on a review of the Air Quality Division's records, Patrick Construction, Inc. failed to submit notification of the water line system renovation to the Air Quality Division.

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…." During the Air Quality Division's inspection asbestos-containing transite pipe material which became RACM was not removed prior to the renovation of the water line system at 1799 Elk Street in Rock Springs, Wyoming.

8) Chapter 3, Section 8(i)(iii)(H) of the Wyoming Air Quality Standards and Regulations states, " No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless the individuals supervising and performing the operation have been trained in the provisions of this regulation and the means of complying with them…" Evidence that the required training has been completed shall be posted and made available for inspection by the Administrator at the demolition or renovation site." RACM was removed by employees that had not been properly trained. Evidence of training was not available or provided.

9) 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 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 and 4) the failure to use trained individuals to strip, remove, handle or disturb regulated asbestos containing in violation of Chapter 3, Section 8(i)(iii)(H) of the Wyoming Air Quality Standards and Regulations.

10) 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.

11) 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 22nd 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)