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

January 17, 2012

Mayor Judy Johnstone
Town of Burns
102 E First Street
Burns, WY 82053

Re: Notice of Violation

Dear Mayor Johnstone,

Enclosed you will find a Notice of Violation (NOV) issued to the Town of Burns 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 demolition of the Town Morgue at 110 W 2nd Street in Burns, 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 TOWN OF BURNS,	)
MAYOR JUDY JOHNSTONE,	) **DOCKET NO. 4947-12**
102 E FIRST STREET	)
BURNS, WYOMING 82053	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found the Town of Burns 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 Town Morgue located in Burns, 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) In response to a complaint received by the Division on September 20, 2011, Mr. Robert Rodriguez, Asbestos Program Inspector, conducted site visits on September 21, 22 and 26, 2011 of demolition activity at the Town Morgue located at 110 W 2nd Street, Burns, Wyoming. Upon first inspection it was discovered that the Town Morgue building had been demolished. Further inspection and communication with representatives of the Town of Burns (Owner) and 3-C's Carpentry (Demolition Contractor) revealed that an asbestos inspection of the building had been conducted prior to the demolition on June 28, 2011. The asbestos inspection showed asbestos containing materials to include wallboard system, floor tile, window caulk and tar roof flashing. Both the Town of Burns and 3-C's Carpentry stated that the asbestos containing materials had not been removed prior to demolition and all waste from the demolition had been taken to the local landfill. No Notification of this demolition was received by the Division. Workers conducting the demolition were not trained to properly remove asbestos materials.

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 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, the Town of Burns failed to submit notification of the demolition of the Town Morgue to the Air Quality Division.

6) 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 materials which became RACM were not removed prior to demolition of the Town Morgue.

7) 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.

8) 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 Burns landfill as general construction debris.

9) Said violations consist of: 1) 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, 2) 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, 3) the failure to use trained individuals to strip, remove, handle or disturb regulated asbestos containing waste material in violation of Chapter 3, Section 8(i)(iii)(H) of the Wyoming Air Quality Standards and Regulations and 4) the failure to properly dispose of asbestos containing waste material in violation of Chapter 3, Section 8(M)(ii)(A) 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 17th day of JANUARY, 2012.

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)