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

February 15, 2012

Mr. Scott Pendery
Magnablend, Inc.
326 N Grand Street
Waxahachie, TX 75165

RE: Notice of Violation

Dear Mr. Pendery:

Enclosed you will find a Notice of Violation (NOV) issued to Magnablend, Inc. by the Department of Environmental Quality, Air Quality Division, for the failure to: 1) remove all RACM from the facility being renovated/demolished, 2) adequately wet RACM during stripping operations, 3) use trained individuals to strip, remove, handle or disturb regulated asbestos containing waste material and 4) properly dispose of asbestos containing waste material. These are violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

Normally, the Department and this Division would refer these types of violations to the State Attorney General's Office for recovery of appropriate penalties. However, in this case, I'm issuing this Notice of Violation as a warning and to put you on notice that future violations of the asbestos regulatory requirements will result in enforcement action seeking penalties as settlement.

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

Sincerely,

Steven A. Dietrich

Steven A. Dietrich
Administrator
Air Quality Division

cc: Mr. Robert Gill
Ms. Linda Dewitt
Mr. Chris Hanify
Ms. Nancy Vehr
Mr. Keith Guille

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION	)
ISSUED TO MAGNABLEND, INC.,	)
MR. SCOTT PENDERY, CEO	) **DOCKET NO. 4954-12**
326 N GRAND STREET	)
WAXAHACHIE, TX 75165	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found Magnablend, 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/demolition activities at the Magnablend Warehouse located at 202 Hudson Street in Mills, 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 an abatement notification received by the Division, Ms. Linda Dewitt, Asbestos Program Coordinator, conducted a site visit on December 21, 2011 of renovation activity at the Magnablend Warehouse located at 202 Hudson Street in Mills, Wyoming. Upon inspection it was discovered that someone had removed some of the asbestos containing floor tile and damaged a lot of other building surfaces. The inspector noted that approximately 200 square feet of floor tile had been removed/disturbed. Investigation revealed that two Fire Departments, the Mills Fire Department and the Natrona County Fire Protection District, had been given permission to perform practice rescue activities in the building. Approval was given by Magnablend and they relayed information to the Mills Fire Department regarding the asbestos-containing floor tile and mastic. Further inspection and communication with representatives of the fire departments revealed that both the Mills Fire Department and Natrona County Fire Protection District removed the floor tile during the weekend of December 10-11, 2011 during practice activities. Following this training, Magnablend returned to the facility to find large amounts of all building materials, to include the asbestos containing floor tile scattered throughout the building. Magnablend employees then cleaned up these materials and disposed of them in a dumpster which was taken to the Casper Balefill for disposal. Asbestos containing materials were made regulated asbestos containing material by the training activities. Regulated asbestos containing materials were not kept adequately wet during stripping operations. Workers disturbing regulated asbestos containing material were not trained to properly remove asbestos materials and all regulated asbestos containing material from the demolition had been taken to the local landfill.

5) 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 floor tile and mastic which became RACM were not removed prior to disturbance.

6) Chapter 3, Section 8(i)(iii)(C) of the Wyoming Air Quality Standards and Regulations states, "When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation." During the removal of asbestos floor tile and mastic, the materials were not kept wet.

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 material was disposed of at the Casper Balefilll as general construction debris.

9) Said violations consist of the failure to: 1) 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, 2) adequately wet RACM during stripping operations in violation of Chapter 3, Section 8(i)(iii)(C) of the Wyoming Air Quality Standards and Regulations, 3) use trained individuals to strip, remove, handle or disturb regulated asbestos containing 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 15th day of FEBRUARY, 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)