



# 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 4, 2012

Mr. Dave Long  
Dave's Asphalt Company  
501 N. Smith Road  
Riverton, WY 82501

RE: Notice of Violation

Dear Mr. Dave Long,

Enclosed you will find a Notice of Violation (NOV) issued to the Dave's Asphalt Company by the Department of Environmental Quality, Air Quality Division, for the failure to: 1) use a wet suppression system to control dust from the screen in violation of permit CT-3556 and 2) obtain an air quality permit prior to commencing construction of the Asphalt Plant at the Wyoming Pit in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations. These violations were observed during a complaint inspection conducted on June 19, 2012 and communication between the Division and Dave's Asphalt Company.

As the Department and this Division consider the failure to comply with permit conditions and air quality permitting requirements to be a serious matter, I am considering recommending 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 Notice of Violation prior to referral to the Attorney General's office, please contact Ms. Karen J. 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 or comments regarding this matter, please feel free to contact me or Ms. Karen Godman.

Sincerely,

Steven A. Dietrich  
Administrator  
Air Quality Division

cc: Robert Gill  
Greg Meeker  
Nancy Vehr  
Keith Guille



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

**IN THE MATTER OF THE NOTICE OF VIOLATION )  
ISSUED TO DAVE'S ASPHALT COMPANY, ) DOCKET NO. 5038-12  
MR. DAVE LONG, )  
501 N. SMITH ROAD, )  
RIVERTON, WY 82501 )**

**NOTICE OF VIOLATION**

**NOTICE IS HEREBY GIVEN THAT:**

1. The Department of Environmental Quality, Division of Air Quality, has found Dave's Asphalt Company to be in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act, permit CT-3556 and Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations in the construction and operation of the crushing and screening equipment and the Asphalt Plant at the Wyoming Pit located in Fremont County, Wyoming.

2. W.S. 35-11-801(c) states, "A permit to construct is required before the construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced."

3. Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming's construction and modification permitting program.

4. Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations states, "Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit from the State of Wyoming, Department of Environmental Quality, before any actual work is begun on the facility."

5. Permit CT-3556 was issued to Dave's Asphalt Company on March 9, 2004. Condition 5 requires:

"That the crushing and screening plant shall utilize a wet suppression system at all times the plant is in use. The wet suppression system shall be located at all belt transfer points and discharge points off the crushers and screens to the extent necessary to comply with the allowable opacity limits..."

6. On June 19, 2012, Mr. Greg Meeker conducted an inspection of Dave's Asphalt operations at the Wyoming Pit in response to numerous complaints of excessive fugitive dust. Upon inspection, excessive fugitive dust was observed from the screen. A company representative stated that water sprays were not used because they clogged equipment.

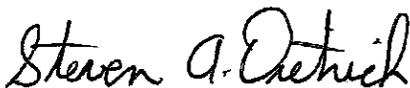
7. During the June 19, 2012 inspection, Mr. Greg Meeker also noted two asphalt plants. One asphalt plant is permitted and the other is not permitted.

8. Said violations consist of the failure to: 1) use a wet suppression system to control dust from the screen in violation of permit CT-3556 and 2) obtain an air quality permit prior to commencing construction of the Asphalt Plant at the Wyoming Pit in violation of W.S. 35-11-801 of the Wyoming Environmental Quality Act and Chapter 6, Section 2(a)(i) of the Wyoming Air Quality Standards and Regulations.

9. 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 provisions, 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 (\$10,000.00) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

10. 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 21<sup>ST</sup> day of AUGUST, 2012.



Steven A. Dietrich  
Administrator  
Air Quality Division



John W. 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 W. 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307/777-7393.)