



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

Todd Parfitt, Director

CERTIFIED MAIL January 9, 2015

Mr. Robert H. Horsley
Horsley Specialties, Inc.
160 E Main St. North
Rapid City, SD 57701-2924

RE: Notice of Violation

Mr. Horsley:

Enclosed you will find a Notice of Violation (NOV) issued to Horsley Specialties, Inc. by the Department of Environmental Quality, Air Quality Division, for the failure to: 1) ensure a thorough asbestos inspection was performed prior to the start of renovation/demolition at the Natrona County High School Building located at 930 S Elm Street in Casper, Wyoming, 2) revise the Notification of Demolition and Renovation form prior to the start of additional abatement activity, 3) remove Category I non-friable roofing before it was made Regulated, 4) maintain copies of current training documentation at the worksite for all employees, and 5) ensure that no visible emissions could be created from waste roofing material. These are violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

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 Mr. Fred DiLella, Stationary Source Compliance Program Manager, at 307-777-3774 no later than ten (10) working days after receipt of this letter.

Should you have any questions or comments regarding this matter, please feel free to contact Mr. Fred DiLella or me at your convenience.

Sincerely,

Steven A. Dietrich
Administrator
Air Quality Division

cc: Mr. Fred DiLella, Ms. Linda Dewitt, Mr. Chris Hanify, Mrs. Elizabeth Lyon, Mr. Landon Brown, Ms. Ann Shed

Herschler Building · 122 West 25th Street · Cheyenne, WY 82002 · <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-7682	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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**BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING**

**IN THE MATTER OF THE NOTICE OF VIOLATION)
ISSUED TO HORSLEY SPECIALTIES, INC.)
MR. ROBERT H. HORSLEY, REGISTERED AGENT) DOCKET NO. 5524-15
160 E MAIN STREET NORTH)
RAPID CITY, SD 57701-2924)**

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

- 1) The Department of Environmental Quality, Division of Air Quality has found Horsley Specialties, Inc. (Operator) 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 renovation/demolition activity at the Natrona County High School located at 930 S Elm Street in Casper, Wyoming, which is owned by the Natrona County School District #1 (Owner).
- 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) Ms. Linda Dewitt, Asbestos Program Coordinator, visited the site of this renovation/demolition project on June 12, 2014. During the site visit Ms. Dewitt noted numerous suspect asbestos-containing materials located in the portion of the building to be demolished during the current phase of the project, but no copy of a thorough asbestos inspection was available at the site. Ms. Dewitt spoke with Mr. John Hininger of AMEC (asbestos consultant for Owner) during the site visit, and he stated that Horsley Specialties, Inc. would be performing additional abatement activities in the portion of the building to be demolished this summer to remove tar-based roofing on Gypcrete®, tar-based material on wood roof supports and removing fire doors that were assumed to contain asbestos. Ms. Dewitt and Mr. Hininger visited the gym roof area containing Gypcrete® covered with tar and Ms. Dewitt noted that an area containing less than 160 square feet of roofing material had been disturbed. Mr. Hininger explained that this activity was performed using a floor buffer with an abrasive pad to see if these work practices would remove the tar. Ms. Dewitt asked to view current training certificates for each of the seven employees of Horsley Specialties, Inc. working at the site. Horsley Specialties, Inc.'s site supervisor, Mr. Ishmael Rubi, was not able to produce a current training certificate for one employee. Some of the roofing material that had been removed and was still present on the roof surface had been allowed to dry out without being sealed into leak-tight containers or placed in the waste dumpster.
- 5) After leaving the site, Ms. Dewitt was provided with a copy of a building survey completed by AMEC during May 2014 and a copy of the most recent AHERA re-inspection for this building. Ms. Dewitt sent a letter to the school district (Owner) on June 25, 2014, with a copy provided to Horsley Specialties, Inc., listing many materials that had not been sufficiently sampled prior to the start of renovation/demolition activity by Horsley Specialties, Inc. This letter stated that concerns about each item deemed incomplete must be addressed prior to the start of demolition activity on this building.
- 6) After receiving a complaint, Ms. Dewitt returned to the site on July 1, 2014 and found that removal of the tar-based material on Gypcrete® and tar material on wood roof

supports had been completed by Horsley Specialties, Inc. No revision to the notification was ever received to indicate Horsley Specialties, Inc.'s intent to remove this additional material. The Pool Addition of the building had been partially demolished at the time of site visit.

7) Chapter 3, Section 8(i)(i) of the Wyoming Air Quality Standards and Regulations states, "To determine which requirements...apply to the owner or operator of a 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..." Review of the AMEC building survey and most recent AHERA 3-year Reinspection with comparison to notes made during the site visit found many suspect materials that had not been sampled or properly abated prior to the start of renovation/demolition activity. As an Owner and/or Operator, Horsley Specialties, Inc. is considered equally responsible for ensuring that a thorough asbestos inspection was performed prior to the start of renovation/demolition.

8) 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 intention to demolish or renovate... (B) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent..." Based on a review of the Air Quality Division's records, Horsley Specialties, Inc. did not revise the existing notification for this project prior to removal of the tar-based material on Gypcrete®, tar-based material on wood roof supports or removal of the assumed fire doors, which would have approximately doubled the amount of roofing to be removed (35,200 square feet). A letter received from Horsley Specialties, Inc. dated June 27, 2014 indicated that the failure to revise the notification was an oversight on the part of Horsley Specialties, Inc.

9) Chapter 3, Section 8(i)(iii)(A) of the Wyoming Air Quality Standards and Regulations states, "Remove all RACM from a facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal..." The use of a floor buffer and abrasive pad to attempt removal of the tar-based material on the Gypcrete® roofing caused at least that material (less than 160 square feet) to be sanded, ground, cut, abraded or extensively broken.

10) 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." Proof of current training for one employee of Horsley Specialties, Inc. was not available at the worksite during the June 12, 2014 site visit.

11) Chapter 3, Section 8(m)(i) of the Wyoming Air Quality Standards and Regulations states, "Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the emission control and waste treatment methods specified in paragraphs (m)(i)(A) through (D)." Some of the removed roofing material still present on the roof surface during the June 12, 2014 site visit had been allowed to dry out without being sealed into labeled, leak-tight containers or placed in the waste dumpster.

12) Said violations consist of the failure to: 1) ensure a thorough asbestos inspection was performed prior to the start of renovation/demolition at the Natrona County High School Building located at 930 S Elm Street in Casper, Wyoming, 2) revise the Notification of Demolition and Renovation form prior to the start of additional abatement activity, 3) remove Category I non-friable roofing before it was made Regulated, 4) maintain copies of current training documentation at the worksite for all employees, and 5) ensure that no visible emissions could be created from waste roofing material. These

are violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

13) 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.

14) 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 9th day of JANUARY, 2015.



Steven A. Dietrich
Administrator
Air Quality Division



Todd Parfitt
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 West 25th Street, Cheyenne, Wyoming 82002. (Telephone: 307-777-3746)