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 June 3, 2015

Mr. Jacob Davis
Colorado Outdoor Living, Inc.
120 Fairway Lane
Fort Collins, CO 80525

RE: Notice of Violation

Mr. Davis:

Enclosed you will find a Notice of Violation (NOV) issued to Colorado Outdoor Living, Inc. by the Department of Environmental Quality, Air Quality Division, for the failure to: 1) complete a thorough asbestos inspection prior to the start of renovation and demolition activity; 2) turn in a Notification of Demolition and Renovation form prior to the work; 3) remove friable asbestos, Category I non-friable roofing and flooring, as well as Category II cement asbestos panels before they were made Regulated; 4) keep removed Regulated Asbestos-Containing Material (RACM) wet from the time it was created until it was packaged for disposal; 5) ensure that employees disturbing/creating Regulated Material were trained; 6) ensure that wetted waste material was sealed in leak-tight containers while wet; and, 7) dispose of contaminated waste at an approved landfill. 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

Steven A. Dietrich
Administrator
Air Quality Division

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

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION	)
ISSUED TO COLORADO OUTDOOR LIVING, INC.	)
MR. JACOB DAVIS	) **DOCKET NO. 5583-15**
120 FAIRWAY LANE	)
FORT COLLINS, CO 80525	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found Colorado Outdoor Living, 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 future dental office to be located at 2100 Pioneer Ave in Cheyenne, Wyoming. The activity was performed under the direction of Dr. Richard S. Cutler, DDS (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, and Ms. Heidi Sontag, Asbestos Inspector visited the site of this renovation/demolition project on March 18, 2015 after noticing the activity while driving past the building. No employees of the Owner or Operator were present during this site visit. During the site visit Ms. Dewitt and Ms. Sontag noted many types of suspect asbestos-containing material located around the dumpster on the south side of the building and also scattered throughout the piles of cement block debris on the parking area that surrounded the west and north sides of the building. Samples of eleven suspect materials were collected.

5) Laboratory analysis of the samples collected from broken material outside the building but around the site, found 12% chrysotile asbestos in the disturbed black flashing tar, 5% chrysotile in a piece of flashing tar, 8% chrysotile in a broken piece of cement asbestos from a door frame, 7% chrysotile in broken 9" green floor tile, 5% chrysotile in a piece of unknown size cream colored floor tile, and 20% chrysotile in a 1' x 2' piece of brown small square sheet vinyl.

6) Contact with the Owner was attempted by several phone calls with messages left on his personal cell phone and with the receptionist at his office. A letter requesting contact was also sent. No response was received from the Owner.

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…" Verbal information from the Operator indicated that no asbestos inspection was performed prior to the start of renovation activity.

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, neither Dr. Richard S. Cutler, DDS (Owner) nor Colorado Outdoor Living, Inc. (Operator) provided a notice to indicate the renovation and demolition activity planned for this site.

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 beings that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal…" The use of a jackhammer attachment and other general demolition practices caused many types of asbestos-containing material to be disturbed enough to become Regulated and then to be co-mingled with the construction debris. More than 160 square feet of this material had been damaged and/or disturbed and was mixed in with the demolition debris.

10) Chapter 3, Section 8 (i)(iii)(F)(I) of the Wyoming Air Quality Standards and Regulations states, "Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with paragraph (m)." During the site visit on March 18, 2015 all of the disturbed asbestos-containing material and the contaminated debris had been allowed to dry out.

11) 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." During a phone discussion on June 1, 2015 with Mr. Jacob Davis (Operator), Mr. Davis stated that none of his employees held any kind of asbestos training at the time of the work.

12) Chapter 3, Section 8(m)(i)(A)(III) of the Wyoming Air Quality Standards and Regulations states, "After wetting, seal all asbestos-containing waste material in leak-tight containers while wet…" All of the demolition debris present during the March 18, 2015 site visit had been allowed to dry out without being sealed into labeled, leak-tight containers.

13) Chapter 3, Section 8(m)(ii) of the Wyoming Air Quality Standards and Regulations states, "All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at: (A) A waste disposal site operated in accordance with the provisions of paragraph (q)…" The contaminated waste from this site was taken for disposal to the North Weld Landfill at Ault, CO which is only allowed to accept non-friable asbestos.

14) Said violations consist of the failure to: 1) complete a thorough asbestos inspection prior to the start of renovation and demolition activity; 2) turn in a Notification of Demolition and Renovation form prior to the work; 3) remove friable asbestos, Category I non-friable roofing and flooring, as well as Category II cement asbestos panels before they were made Regulated; 4) keep removed RACM wet from the time it was created until it was packaged for disposal; 5) ensure that employees disturbing/ creating Regulated Material were trained; 6) ensure that wetted waste material was sealed in leak-tight containers while wet; and, 7) dispose of contaminated waste at an approved landfill. These are violations of Chapter 3, Section 8 of the Wyoming Air Quality Standards and Regulations.

15) 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.

16) 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 3rd day of JUNE, 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)