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 1, 2015

Mr. Ed Rust
Lifestyle Custom Homes, LLC.
400 S Miller Avenue
Gillette, WY 82718

RE: Notice of Violation

Mr. Rust:

Enclosed you will find a Notice of Violation (NOV) issued to Lifestyle Custom Homes, LLC. by the Department of Environmental Quality, Air Quality Division, for the failure to: 1) revise the Notification of Demolition and Renovation form prior to the start of additional abatement activity, 2) remove Category I non-friable flooring before it was made Regulated, 3) keep removed Regulated Asbestos-Containing Material (RACM) wet until sealed in leak-tight containers, 4) ensure that employees disturbing or created RACM are currently trained, and 5) seal all RACM waste in leak-tight containers while wet. 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. Tanner Shatto, 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 LIFESTYLE CUSTOM HOMES, LLC.	)
MR. ED RUST, OWNER	) **DOCKET NO. 5577-15**
400 S MILLER AVE	)
GILLETTE, WY 82718	)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1) The Department of Environmental Quality, Division of Air Quality has found Lifestyle Custom Homes, LLC. (Owner) 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 Lifestyle Custom Homes location at 400 S Miller Ave in Gillette, Wyoming. The activity was performed by employees of MH Construction & Painting, LLC. (Operator) in the presence of and at least partially directed by the 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 April 2, 2015. During the site visit Ms. Dewitt and Ms. Sontag noted numerous pieces of 9" and 12" floor tile that had been broken into small pieces (most 2" x 2" down to quarter-sized pieces). Some of these pieces were co-mingled with concrete waste in a trailer sitting to the east of the building, while many pieces were present on the dirt in areas of the building where concrete had been cut out. The edges of the concrete appeared smooth, as if they had been cut with equipment using a rotating blade. No copy of a thorough asbestos inspection was available at the site. Samples of broken flooring from inside the waste trailer, inside the building still adhered to the concrete floor, and inside the building broken up on the dirt surface were collected.

5) Laboratory analysis of the floor tile samples, collected from inside the waste trailer and from the tile remaining inside the building either still adhered to the floor or broken on the dirt surface, found 2-4% chrysotile asbestos in the floor tile.

6) Phone calls with the Owner and Operator found that the Owner was aware the floor tile contained asbestos prior to the start of activity. Also the tile and concrete was cut at the direction of the Owner by employees of the Operator with a demolition saw to help level the surface of the remaining concrete.

7) 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 Lifestyle Custom Homes, LLC. (Owner) nor MH Construction & Painting, LLC. (Operator) revised the notice prior to the start of their

work activities to indicate their intent to create more than 200 square feet of RACM flooring due to work practices to be used.

8) 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 demolition saw to cut asbestos-containing floor tile adhered to concrete and the subsequent activity to remove the concrete, caused more than 200 square feet of the floor tile to be sanded, ground, cut, abraded or extensively broken.

9) 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 April 2, 2015 all of the broken floor tile in the waste trailer and inside the building had been allowed to dry. A phone conversation with the Operator, Mr. Mario Herrera on April 23, 2015 found that his employees used water during the cutting process, but the waste was not wet or sealed in leak-tight containers during the site visit.

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." During a phone discussion on April 23, 2015 with the Operator Mr. Mario Herrera, Mr. Herrera stated that none of his employees hold any kind of current asbestos training.

11) 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 broken floor tile present during the April 2, 2015 site visit had been allowed to dry out without being sealed into labeled, leak-tight containers.

12) Said violations consist of the failure to: 1) revise the Notification of Demolition and Renovation form prior to the start of additional abatement activity, 2) remove Category I non-friable flooring before it was made Regulated, 3) keep removed RACM wet from the time it was created until it was packaged for disposal, 4) ensure that employees disturbing/creating Regulated Material were trained, and 5) ensure that wetted waste material was sealed in leak-tight containers while wet. 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 1ST 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)