

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

IN THE MATTER OF:

VIOLATIONS OF THE ASBESTOS CONTROL
ACT BY CITY OF GLENDIVE AT 221 AND 223
NORTH MERRILL AVENUE, GLENDIVE,
DAWSON COUNTY, MONTANA (FID 2935)

NOTICE OF VIOLATION

AND

CONSENT ORDER

Docket No. ASB-24-03

Pursuant to the authority of § 75-2-515, Montana Code Annotated (MCA), the Montana Department of Environmental Quality (DEQ) hereby gives notice to City of Glendive of the following Finding of Facts and Conclusions of Law with respect to violations of the Asbestos Control Act (Act) codified at Title 75, chapter 2, part 5, MCA, and the administrative rules implementing the Act set forth in Administrative Rules of Montana (ARM) Title 17, chapter 74.

Findings of Fact and Conclusions of Law

On October 24, 2023, two buildings, located at 221 North Merrill Avenue (Retro Theater) and 223 North Merrill Avenue (Jordan Inn), were heavily damaged in a fire in Glendive, Montana. On November 15, 2023, the City of Glendive issued an *Emergency Authorization for Demolition of Unsafe Structure* for the Jordan Inn and submitted an Emergency Renovation Notification to DEQ on November 15, 2023, but did not complete the required submittals for an asbestos Project Permit.

The City of Glendive contracted Tony Hanson, DBA Hanson Independent, to demolish the remaining wall to mitigate the potential public health hazard and ensure the safety of the community. Prior to being damaged by fire, an asbestos inspection was conducted at the Jordan Inn in September 2019, which identified 25 asbestos-containing materials throughout the structure. The Retro Theater did not have a prior asbestos inspection. Any asbestos-containing materials present in the Retro Theater and Jordan Inn were rendered friable (able to be crumbled, pulverized, or reduced to powder by hand pressure when dry) by the fire and subsequent demolition activities, and thus, are classified as Regulated Asbestos-Containing Materials (RACM). Based on the demolition method, the debris from the building is contaminated with RACM.

The City of Glendive was aware of the requirement to obtain an asbestos project permit, through phone calls and emails from DEQ in mid-November 2023, but failed to obtain an asbestos project permit from DEQ.

The City of Glendive thus committed the following violation of the Asbestos Control Act (Act):

1. Conducting an asbestos project without a permit from DEQ, in violation of ARM 17.74.355(2).

DEQ notified the City of Glendive of the above-described violations in a violation letter dated January 12, 2024. The City of Glendive responded to the violation letter in a response letter dated January 26, 2024, but did not obtain a permit.

Order

DEQ has calculated, and The City of Glendive is assessed, an administrative penalty of \$1,000 for the above-described violations, as shown on the enclosed Penalty Calculation Worksheet. In the interest of settlement and in recognition of the City of Glendive's efforts to ensure public safety, DEQ will exercise its enforcement discretion and suspend all but \$250 of the penalty amount. To address these violations, DEQ orders and City of Glendive agrees to pay the administrative penalty as follows:

- A. City of Glendive shall pay the administrative penalty of \$250 within 30 days of the effective date of this Consent Order. To pay by credit card, debit card, or electronic check, contact the Enforcement Program at 406-444-0379. To pay by check or money order, please make payable to the Montana Department of Environmental Quality and send to:

Garett Masin
Environmental Enforcement Specialist
Montana Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

If City of Glendive fails to comply with the requirements of this Consent Order, DEQ may impose all or a portion of the suspended portion of the calculated penalty. Within 30 days after receipt of written notice, City of Glendive must pay to DEQ the full amount of any re-imposed penalty. The penalty must be paid as described above. This Consent Order will remain in effect until City of Glendive has paid the assessed penalty of \$250. DEQ will notify City of Glendive in writing after the requirements of the Consent Order have been satisfied.

Miscellaneous Provisions, Reservation of Rights, and Waiver

Each of the signatories to this Consent Order represents that he or she is authorized to enter into and to bind the parties represented by him or her to the terms of the Consent Order.

This Consent Order is the entire agreement between DEQ and City of Glendive.

No amendment, alteration, or addition to this Consent Order will be binding unless reduced to writing and signed by both parties.

City of Glendive waives his right to administrative appeal or judicial review of this Consent Order and agrees that this Consent Order is the final and binding resolution of the issues raised.

Any failure by City of Glendive to fulfill the requirements of this Consent Order is a violation of Title 75, chapter 2, part 5, MCA, and may result in DEQ seeking additional corrective action, including but not limited to civil penalties pursuant to § 75-2-514, MCA.

City of Glendive waives defenses based on the statute of limitations for the violations described in this Consent Order and may not challenge DEQ's right to seek judicial relief if City of Glendive fails to comply fully with the terms of this Consent Order.

None of the requirements in this Consent Order relieve City of Glendive from his obligation to comply with all applicable laws, including but not limited to, statutes, rules, orders, or permits.

Each party will bear its own costs and attorney fees incurred in this matter.

This Consent Order becomes effective upon signature of DEQ and closes upon the date that written notification is issued from DEQ.

IT IS SO ORDERED:

STATE OF MONTANA, DEPARTMENT OF
ENVIRONMENTAL QUALITY

Chad Anderson

CHAD W. ANDERSON, Program Manager
Enforcement

19 March 2025

Date

IT IS SO AGREED:

CITY OF GLENDIVE

Deborah Dion

Signature

Deborah Dion

Printed Name

Mayor

Title

3-19-2025

Date

