

OLENE S. WALKER
Governor

GAYLE F. McKEACHNIE
Lieutenant Governor

February 12, 2004

CERTIFIED MAIL
7099 3400 0016 8895 5903

Mike Glasson, Environmental Coordinator
Andalex Resources, Inc.
P. O. Box 902
Price, Utah 84501

Re: Proposed Assessment for State Violation No. N04-49-2-1, Andalex Resources, Inc., Centennial mine, C/007/0019, Outgoing File

Dear Mr. Glasson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above referenced violation. The violation was issued by Division Inspector, Karl Houskeeper, on January 23, 2004. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Notice of Violation has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

Otherwise, under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

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2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

Daron R. Haddock
Assessment Officer

an
Enclosure

cc: OSM Compliance Report
Vickie Southwick, DOGM
Price Field Office

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**WORKSHEET FOR ASSESSMENT OF PENALTIES
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Andalex Resources, Inc./ Centennial Mine Complex
 PERMIT C/007/019 NOV / CO # N04-49-2-1 VIOLATION 1 of 1

ASSESSMENT DATE February 12, 2004

ASSESSMENT OFFICER Daron R. Haddock

I. HISTORY (Max. 25 pts.)

A. Are there previous violations, which are not pending or vacated, which fall within one (1) year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
_____	_____	_____
_____	_____	_____

1 point for each past violation, up to one (1) year
 5 points for each past violation in a CO, up to one (1) year
 No pending notices shall be counted

TOTAL HISTORY POINTS _____

II. SERIOUSNESS (Either A or B)

NOTE: For assignment of points in Parts II and III, the following apply:

- Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
- Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Event

A. EVENT VIOLATION (Max 45 pts.)

- What is the event which the violated standard was designed to prevent?
- What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Insignificant	1-4
Unlikely	5-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 5

PROVIDE AN EXPLANATION OF POINTS:

*** *The Inspector indicated that no event actually occurred, but that there was some potential for water pollution to occur due to non-maintained diversions although it was very unlikely since drainage all reported to a sediment pond anyway. Because there was low probability that water pollution would leave the site the assessed points are in the lower portion of the unlikely range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 0

PROVIDE AN EXPLANATION OF POINTS:

*** *The Inspector indicated that no damage occurred. Potential for damage was very unlikely since drainage all reports to a sediment pond.*

B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? _____
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 5

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Normal Negligence

ASSIGN NEGLIGENCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS:

*** *Maintenance of culverts and diversions is within the power of the permittee. Failure to maintain these facilities shows indifference to the regulations. The inspector indicated that the Permittee had been warned of the problem on two previous occasions and did nothing to correct it. Thus assessment is in the upper portion of the negligence range.*

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?
IF SO--EASY ABATEMENT

Easy Abatement Situation

C	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
C	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
C	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve

compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- | | | |
|---|---|-------------|
| C | Rapid Compliance | -11 to -20* |
| | (Permittee used diligence to abate the violation) | |
| C | Normal Compliance | -1 to -10* |
| | (Operator complied within the abatement period required) | |
| C | Extended Compliance | 0 |
| | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) | |
| | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan) | |

EASY OR DIFFICULT ABATEMENT? _____

ASSIGN GOOD FAITH POINTS _____

PROVIDE AN EXPLANATION OF POINTS:

******* *The violation abatement date is February 23, 2004. The abatement work has not been completed at the time of this proposed assessment. The assignment of good faith points cannot be made at this time.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>N04-49-2-1</u>	
I.	TOTAL HISTORY POINTS _____
II.	TOTAL SERIOUSNESS POINTS <u>5</u>
III.	TOTAL NEGLIGENCE POINTS <u>12</u>
IV.	TOTAL GOOD FAITH POINTS _____
	TOTAL ASSESSED POINTS <u>17</u>
	TOTAL ASSESSED FINE <u>\$ 170</u>

cc: Price Field Office
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