

June 2, 2006

CERTIFIED MAIL
7004 2510 0004 1824 2574

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

Subject: Findings of Fact, Conclusions and Order and Final Assessment for Violation N06-49-1-1, Centennial Project, C/007/0019, Carbon County, Utah

Dear Mr. Glasson:

On April 18, 2006, an Informal Conference was held to review the fact of the violation assessment for N06-49-1-1. As a result of a review of all pertinent data and facts, including those presented in the Informal Conference, the attached documents constitutes the findings of fact, conclusions and order and final assessment regarding this violation of the Coal Mining and Reclamation Act and rules.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty of \$ 242.00 must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, mail c/o Vickie Southwick at the address listed below.

Sincerely,

Mary Ann Wright
Associate Director, Mining
Assessment Conference Officer

Enclosures
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UTAH DIVISION OF OIL, GAS AND MINING
WORKSHEET FOR **FINAL** ASSESSMENT OF PENALTIES

COMPANY: Andalex Resources, Centennial Mine
PERMIT: C/007/0019
VIOLATION: N06-49-1-1

ASSESSMENT CONFERENCE OFFICER (ACO): Mary Ann Wright

	Proposed Assessment On 2/2/06	Final Assessment on 6/2/06
(1) History/Previous Violations	<u>1</u>	<u>1</u>
(2) Seriousness	<u>15</u>	<u>10</u>
(3) Negligence	<u>16</u>	<u>10</u>
(4) Good Faith	<u>-0</u>	<u>-10</u>
Total Points	<u>32</u>	<u>11</u>

TOTAL ASSESSED FINE \$ 242.00

NARRATIVE: Re-assessed as potential (vs. actual) hindrance violation with 1 history point. Abatement not required. However, operator took immediate steps to obtain any data from retained water samples to provide the missing information to OGM so some good faith points were awarded. Operator also planned to consolidate the permit to make it easier to see what is required for water monitoring. Operator also satisfied ACO that the field notes taken at sampling would detect environmental harm to some degree.

(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

3. The Violation was issued on 1/18/06 for failure to monitor certain springs and failure to test for required parameters. The rule violated was R645-301-731.223.
4. The Violation was terminated on the same day since it was considered a hindrance violation.
5. Mr. Housekeeper presented a package of information including: correspondence regarding the violation, information from the permit, the violation, the assessment and the rules. Karl went through the package and explained the information provided.
6. The Petitioner stated that the mine was not contesting the fact of the violation. They confirmed that two sites were not sampled at all. They also stated that there is a need to correct the ambiguities that exist in the permit regarding sampling sites. The concern was focused upon the amount of seriousness points, the assessment appeared higher than average. Petitioner stated that the parameters that were monitored do, in fact, provide information on the hydrologic balance. The petitioner does not agree with the assessment that OGM was hindered from knowing about whether there was harm to the hydrologic balance because the sites that were not monitored were $\frac{3}{4}$ to one mile, aerially, from the actual mining activity. Jim Smith, OGM hydrologist stated that the TSS of water is critical in knowing impact from mining. The Petitioner noted that field notes are taken on the condition of the water at time of sampling. Notes indicated that the visible TSS was low or non-detect at the five sites and that iron was field-tested. Although Petitioner understands that the NOV is written for not following the written commitment, petitioner believes the issue of sediment leaving the permit area was the item of greatest concern for environmental protection, and it appeared that there was no harm of this type. Concerns were similarly expressed for the amount of negligence - that the mine believed they were following the plan; and the lack of good faith points - none were awarded. Petitioner contacted the lab to see if any reserve samples could be tested for missing parameters. They showed a very quick reaction and jumped on the matter. They have also begun the process of amending the mine plan so that all of the water monitoring requirements are in the same place in the plan.

7. Daron Haddock, assessment officer for OGM stated he had looked for guidance to similar NOV's from last year. He relied on this for the seriousness and negligence points. Good faith points were not awarded for this NOV since they were not applicable for a hindrance violation that was terminated on the same day as issuance.

CONCLUSIONS

- Coal NOV06- 49-1-1 was assessed by OGM for 32 penalty points, a fine of \$1320.
- Petitioner provided basis for reducing the penalty points and fine.
- OGM properly assessed the proposed penalty points based on prior NOV's as a guide.
- A final assessment of the violation is made based on the information provided.

ORDER

NOW THEREFORE, it is ordered that:

- The final assessment for the violation is changed to 11 penalty points, with a fine of \$242.00.

SO DETERMINED AND ORDERED this 2 day of June 2006

Mary Ann Wright, Associate Director, Mining
Informal Conference Officer
Division of Oil, Gas and Mining
State of Utah