



State of Utah

Department of Natural Resources

MICHAEL R. STYLER  
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA  
Division Director

JON M. HUNTSMAN, JR.  
Governor

GARY R. HERBERT  
Lieutenant Governor

February 28, 2007

CERTIFIED RETURN RECEIPT  
7004 2510 0004 1824 2871

Dave Shaver, Manager  
Andalex Resources  
P.O. Box 1077  
Price, Utah 84501

Subject: Proposed Assessment for Notice of Violation #10003, Andalex Resources, Inc., Centennial Mine, C/007/0019, Outgoing File

Dear Mr. Shaver:

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 February 8, 2007. 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.

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, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
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.

Page 2  
Dave Shaver  
February 28, 2007

**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

Enclosure

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

O:\007019.CEN\COMPLIANCE\ASSESMENT\PROASSESSMENT\_N10003.DOC

- 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 negligence

ASSIGN NEGLIGENCE POINTS 12

**PROVIDE AN EXPLANATION OF POINTS:**

***\*\*\* This violation was the result of indifference to the DOGM regulations or the lack of reasonable care. A prudent operator would understand the need to control noncoal waste. In this case the Operator had been warned during at least 6 previous inspections that waste items were found outside of the containment structure. Because the Operator had been warned so many times it is felt that there is a higher degree of negligence, thus 12 points are assigned.***

**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

- Immediate Compliance -11 to -20\*  
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- 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

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- 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? Easy

ASSIGN GOOD FAITH POINTS -5

**PROVIDE AN EXPLANATION OF POINTS:**

**\*\*\*** *The violation was issued on February 8, 2007 and the abatement was required by February 12, 2007 which was a fairly short timeframe. This is considered to be an easy abatement since no plans were required and the Operator had the resources available to complete the abatement. The abatement was completed prior to the February 12, 2007 deadline which showed that the Operator used diligence to complete the abatement. I am awarding 5 good faith points for completing the easy abatement in a rapid manner.*

**V. ASSESSMENT SUMMARY**

NOTICE OF VIOLATION # <u>N 10003</u>	
I.	TOTAL HISTORY POINTS <u>2</u>
II.	TOTAL SERIOUSNESS POINTS <u>8</u>
III.	TOTAL NEGLIGENCE POINTS <u>12</u>
IV.	TOTAL GOOD FAITH POINTS <u>-5</u>
	TOTAL ASSESSED POINTS <u>17</u>
	<b>TOTAL ASSESSED FINE</b> <u>\$ 374</u>