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Outgoing
C0070019
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State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

Division of Oil, Gas and Mining
JOHN R. BAZA
Division Director

March 3, 2009

CERTIFIED RETURN RECEIPT
7004 2510 0004 1824 9634

Dave Shaver
Andalex Resources Inc.
P. O. Box 910
East Carbon, Utah 84520-0910

Subject: Proposed Assessment for State Violation #NOV10032, 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 Housekeeper, on January 21, 2009. 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. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

1594 West North Temple, Suite 1210, PO Box 145801, Salt Lake City, UT 84114-5801
telephone (801) 538-5340 • facsimile (801) 359-3940 • TTY (801) 538-7458 • *www.ogm.utah.gov*

UTAH DNR OIL, GAS & MINING

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 Suzanne Steab.

Sincerely,

Joseph C. Helfrich
Assessment Officer

JCH/sqs
Enclosure
cc: OSM Compliance Report
Suzanne Steab, DOGM
Vicki Bailey, DOGM
Price Field Office
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Sent To Dave Shaver

Street, Apt. No.; or PO Box No. P.O. Box 910

City, State, ZIP+4 East Carbon UT 84520-0910

PS Form 3800, June 2002 — See Reverse for Instructions

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

COMPANY / MINE Andalex Resources Inc.

PERMIT C/007/0019 NOV / CO # 10032 VIOLATION 1 of 1

ASSESSMENT DATE March 3, 2009

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY (Max. 25 pts.)

A. Are there previous violations, which are not pending or vacated, which fall 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 0

II. SERIOUSNESS (Either A or B)

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

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.

2. 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 Event

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

Environmental Harm

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

PROBABILITY	RANGE
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS __5__

PROVIDE AN EXPLANATION OF POINTS:
******According to the inspector statement the probability of the event occurring is unlikely as flow from DD-3 reports to a sediment pond.***

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:
******No damage occurred as a result of the violation.***

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 Greater degree of fault

ASSIGN NEGLIGENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:
******According to the inspector statement the permittee was provided an opportunity to correct the problem during the previous inspection and failed to do so. Ssimilar violations, # N-04-49-02-01, # 10007 and # 1008 have been issued on January 23, 2004, July 06, 2007and August 23, 2007.***

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 abatement

ASSIGN GOOD FAITH POINTS 0

PROVIDE AN EXPLANATION OF POINTS:
******The permittee complied within the abatement period. The termination notice did not include any information regarding a measurement of achieving compliance.***

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # **NOV 10032**

I.	TOTAL HISTORY POINTS	0
II.	TOTAL SERIOUSNESS POINTS	5
III.	TOTAL NEGLIGENCE POINTS	20
IV.	TOTAL GOOD FAITH POINTS	0
	TOTAL ASSESSED POINTS	25
	TOTAL ASSESSED FINE	**$550**