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Outgoing
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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas & Mining

JON M. HUNTSMAN, JR.
Governor
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Lieutenant Governor

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Executive Director
JOHN R. BAZA
Division Director

September 29, 2010

CERTIFIED RETURN RECEIPT
7005 0390 0000 7507 4740

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

Subject: Proposed Assessment for State Violation No. 10067, Andalex Resources, Inc.,
C/007/0019, Outgoing File, Task ID #3612

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 notice of violation. Division Inspector, Ingrid Campbell, issued the notice of violation on September 8, 2010. 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 Cessation Order has been considered in determining the facts surrounding the violation and the amount of penalty.

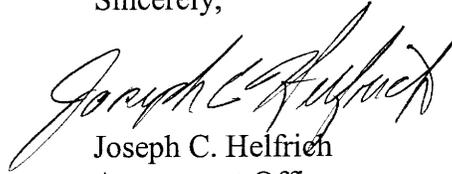
Under R645-401-700, there are two informal appeal options available to you:

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. The Division Director will conduct this conference. 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.

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

Enclosure

cc: OSM Compliance Report
Vicki Bailey, DOGM
Suzanne Steab, DOGM
Price Field Office

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Dave Shaver
P.O. Box 910
East Carbon, UT 84520-0910

PS Form 3800, October 2002 See Reverse for Instructions

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

COMPANY / MINE Andalex Resources, Inc. / Centennial Mine

PERMIT C/007/0019

NOV / CO # 10067

VIOLATION 1 of 1

ASSESSMENT DATE September 29, 2010

ASSESSMENT OFFICER Joe 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
_____	_____	<u>0</u>
_____	_____	_____

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

A. EVENT VIOLATION (Max 45 pts.)

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

The event was reduced establishment of vegetative cover.

2. 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
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

PROVIDE AN EXPLANATION OF POINTS:

*****According to the information provided in the inspector statement** "Gas well pads #1 and #5 are dominated by noxious weeds. The operator did not adequately control the weeds in order to establish desirable vegetative cover. The weed infestation is too large to control by spot treatments at this point. Therefore, in an attempt to control the weed infestation, desirable forbs and shrubs will be killed. The operator will have to reseed the area after an herbicide is applied. This will restart the bond liability period".

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 12

PROVIDE AN EXPLANATION OF POINTS:

***** According to the information provided in the inspector statement** "Damage occurred to desirable vegetation from the uncontrolled weed population. If the DOGM inspector and landowner had not discovered the problem, the weeds could have spread to other parts of the permit area as well as to places outside the permit area. The weeds from the pads have already spread to the access road within the permit area".

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 0

PROVIDE AN EXPLANATION OF POINTS:

TOTAL SERIOUSNESS POINTS (A or B) 32

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 _____

ASSIGN NEGLIGENCE POINTS 8

PROVIDE AN EXPLANATION OF POINTS:

**** According to the information provided in the inspector statement, "The weed infestation was not done purposely by the operator. Weed seed could have come in by unclean equipment, cattle or another way. The operator was alerted of the problem by the landowner, and is willing to fix the problem immediately. The operator was fully aware that weed control of the sites was required in order to establish desirable vegetative cover to meet success standards. The operator did not immediately alert DOGM, but did attempt to control the weeds".*

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

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

*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

X	Rapid Compliance (Permittee used diligence to abate the violation)	-11 to -20*
X	Normal Compliance (Operator complied within the abatement period required)	-1 to -10*
X	Extended Compliance (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)	0

EASY OR DIFFICULT ABATEMENT? Difficult

ASSIGN GOOD FAITH POINTS 15

PROVIDE AN EXPLANATION OF POINTS:

*** According to the information provided in the inspector statement, "The operator immediately met with DOGM and the landowner once the landowner submitted a formal complaint to DOGM. The operator immediately complied with the NOV and clipped the heads of the musk thistle. The operator is required to spray the entire sites with a broadleaf herbicide by October 4, 2010".

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # <u>CO 10067</u>	
I. TOTAL HISTORY POINTS	<u>0</u>
II. TOTAL SERIOUSNESS POINTS	<u>32</u>
III. TOTAL NEGLIGENCE POINTS	<u>8</u>
IV. TOTAL GOOD FAITH POINTS	<u>- 15</u>
TOTAL ASSESSED POINTS	<u>25</u>
TOTAL ASSESSED FINE	<u>\$ 550</u>