Informal Hearing file

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

April 20, 1992

CERTIFIED RETURN RECEIPT REQUESTED
No. P 540 713 888

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

Mike

Dear Mr. Glasson:

Re: Informal Hearing for State Violation, N92-32-1-2, ACT/007/033, Wildcat Loadout, Andalex Resources, Inc, Carbon County, Utah

In accordance with your request dated March 31, 1992, please be advised that the Informal Hearing on state violation N92-32-1-2, Wildcat Loadout, has been established for Tuesday, April 28, 1992, beginning at 9:00 a.m.

Pertinent, written material you wish reviewed before the conference can be forwarded to me at the address listed above.

The conference will held in the office of the Division of Oil, Gas and Mining.

Best regards,

Dianne

Dianne R. Nielson
Director

vb
cc: B. Freeman, OSM
J. Helfrich
H. Sauer
DOGM Price Office
Public Notice Board

an equal opportunity employer

BEFORE THE DIVISION OF OIL GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

---ooOoo---

IN THE MATTER OF THE APPEAL OF FACT OF VIOLATION N92-32-1-2, ANDALEX RESOURCES, INC., WILDCAT LOADOUT, CARBON COUNTY, UTAH, ACT/007/033	:	FINDINGS, CONCLUSIONS AND ORDER INFORMAL HEARING CAUSE NO. N92-32-1-2

---ooOoo---

On April 28, 1992, the Division of Oil, Gas and Mining ("Division") held an informal hearing at the request of Andalex Resources, Inc. ("Andalex") concerning the fact of violation for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding:	Dianne R. Nielson, Director Division of Oil, Gas and Mining
Petitioner: ("Andalex")	Mike Glasson Andalex Resources, Inc.
Division:	Lowell Braxton Associate Director for Mining
	Henry Sauer Reclamation Specialist Issuing Staff
Board:	Joe Helfrich Assessment Officer Penalty Assessment
	Ron Daniels Assessment Conference Officer

The Findings, Conclusions, and Order in this matter are based on information provided in connection with this informal hearing, and information in the files of the Division.

FINDINGS OF FACT

1. Notice of this hearing was properly given.

2. The Assessment Conference, to review the proposed penalties for NOV N92-32-1-2, was held immediately following this informal hearing regarding fact of violation. Requirement to pay the assessed penalty is stayed pending the decision in the informal review of fact of violation.

3. NOV N92-32-1-2, parts 1 of 2 and 2 of 2, were issued on January 22, 1992, by Henry Sauer based on the Division's Mid-Term Permit Review for Andalex's Wildcat Loadout facility. The NOV was not issued during or as the result of an inspections.

4. N92-32-1-2, part 1 of 2, was written for failure to comply with the terms and conditions of the approved permit, failure to analyze "leachate" from coal waste in accordance with the permit, and failure to conduct acid and/or toxic forming potential analyses on coal waste, in accordance with Utah Admin. R.645(614)-300-143.

5. N92-32-1-2, part 2 of 2, was written for failure to comply with the terms and conditions of the approved permit, resulting from failure to conduct an erosion pin study in disturbed area ditches D-2, D-3, D-7, D-9, D-11, D-13, D-14, and D-17, in accordance with Utah Admin. R.645(614)-300-143.

6. Andalex acknowledged that the required analyses were not included in the 1990 Annual Report. When analyses were submitted, it was determined that they did not include all the analyses required by the permit.

7. Andalex has now completed the analyses required to meet the abatement requirements of N92-32-1-2, part 1 of 2.

8. Andalex indicated that the erosion pin study was not conducted because the ditches were modified by lining them with half-round culvert and conveyor belt to eliminate the problems of erosion. These changes were coordinated with the Price Field Office, but were implemented prior to approval and incorporation of the approved changes in the permit.

9. Following the issuance of N92-32-1-2, the Division did approve the permit changes reflecting the placement of conveyor belt and half-round culvert in the subject ditches.

10. At this time, because the changes in ditch construction have been approved and implemented, the need for the erosion pin study is obviated. The abatement requiring the erosion pin study is impractical and unnecessary.

CONCLUSIONS OF LAW

1. Andalex failed to comply with the terms of their permit and the rules when of the Division it failed to conduct complete analyses of the coal waste and provide those analyses in the Annual Report, as specified in part 1 of 2 of N92-32-1-2.

2. The changes in design and construction of disturbed area ditches were constructed prior to being incorporated in the permit at the time the violation was written. However, this was not the issue cited in N92-32-1-2, part 2 of 2.

3. The disturbed area ditches, as constructed with half-round culvert and conveyor belt, met the requirements of the program for controlling erosion

ORDER

NOW THEREFORE, it is ordered that:

1. NOV N92-32-1-2, part 1 of 2, is upheld.

2. NOV N92-32-1-2. part 2 of 2. is vacated.

3. The finalized assessment, resulting from the Assessment Conference of April 28, 1992, is due and payable to the Division 30 days from the date of this Order.

4. The Petitioner may appeal to the Board of Oil, Gas and Mining the informal determination of fact of violation and/or finalized assessment by filing said appeal within 30 days of the date of this Order, in accordance with statutory and regulatory requirements, including placing the assessed civil penalty in escrow.

SO DETERMINED AND ORDERED this day of May 28, 1992.

Dianne R. Nielson, Director
Division of Oil, Gas and Mining
State of Utah

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER in Cause No. N92-32-1-2 to be mailed by certified mail, postage prepaid, on the 28th day of May, 1992, to the following:

Mike Glasson, Sr. Geologist
Andalex Resources, Inc.
P. O. Box 902
Price, Utah 84501

Lynda Jenson

N92-32-1-2 DOGM LJ ACT/007/033 IF

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.
1. ☐ Show to whom delivered, date, and addressee's address. *(Extra charge)*
2. ☐ Restricted Delivery *(Extra charge)*

3. Article Addressed to:
MIKE GLASSON, SR GEOLOGIST
ANDALEX RESOURCES INC
P O BOX 902
PRICE UT 84501

4. Article Number
P 879 596 254

Type of Service:
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☒ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Address
X Mike Glasson

6. Signature — Agent
X

7. Date of Delivery

8. Addressee's Address *(ONLY if requested and fee paid)*

PRICE, UT MAY 1992

PS Form 3811, Mar. 1988 * U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER in Cause No. N92-32-1-2 to be mailed by certified mail, postage prepaid, on the 28th day of May, 1992, to the following:

Mike Glasson, Sr. Geologist
Andalex Resources, Inc.
P. O. Box 902
Price, Utah 84501

Lynda Jenson

DOGM LJ N92-32-1-2
P 879 596 254

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to MIKE GLASSON SR GEOLOGIST ANDALEX RESOURCES INC	
Street and No. P O BOX 902	
P.O., State and ZIP Code PRICE UT 84501	
Postage	$ 52
Certified Fee	100
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	100
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	252
Postmark or Date	

ACT 1007/033 IR

SALT LAKE CITY, UT MAIN OFFICE MAY 28 1992 USPS

PS Form 3800, June 1985

UNITED STATES POSTAL SERVICE
OFFICIAL
SENDER IN
Print your name, a
in the space below
• Complete items
reverse.
• Attach to front
permits, otherw
article.
• Endorse article
Requested" adj
RETURN TO

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing FINDINGS, CONCLUSIONS AND ORDER in Cause No. N92-32-1-2 to be mailed by certified mail, postage prepaid, on the 28th day of May, 1992, to the following:

Mike Glasson, Sr. Geologist
Andalex Resources, Inc.
P. O. Box 902
Price, Utah 84501

Lynda Jenson

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)

2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in Item 1 of Form 3811.

6. Save this receipt and present it if you make inquiry.

☆ U.S.G.P.O. 1987-197-722

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.
- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PRICE, UT 1992

U.S.MAIL

PENALTY FOR PRIVATE USE, $300

RETURN TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF UTAH
NATURAL RESOURCES
OIL, GAS, & MINING
3 TRIAD CENTER, SUITE 350
SALT LAKE CITY, UTAH 84180-1203