



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

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July 13, 1995

Art Abbs, Acting Director
Office of Surface Mining
Reclamation and Enforcement
505 Marquette N.W., Suite 1200
Albuquerque, New Mexico 87102

Re: Findings, Conclusions and Order (C94-39-1-1), Wildcat Loadout Facility,
Andalex Resources, Inc., ACT/007/033, Folder #2, Carbon County, Utah,

Dear Mr. Abbs:

Enclosed please find the Findings, Conclusions and Order for Cessation Order
C94-39-1-1 signed July 26, 1995.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Pamela Grubaugh-Littig'.
Pamela Grubaugh-Littig
Permit Supervisor

Enclosure



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

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IN THE MATTER OF THE APPEAL OF FACT OF VIOLATION C94-39-1-1, ANDALEX RESOURCES, INC., WILDCAT LOADOUT	: : :	FINDINGS, CONCLUSIONS AND ORDER CAUSE NO. ACT/007/033
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On June 19, 1995, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the fact of violation issued to Andalex resources, Inc. for the above-referenced Notice of Violation ("NOV"). The following individuals attended:

Presiding: James W. Carter
Director

Petitioner: Michael W. Glasson

Division: Stephen Demczak
Joe Helfrich

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

FINDINGS OF FACT

1. Notice of this hearing was properly given.
2. The requirement to pay the assessed penalty is stayed pending this decision upon the informal review of fact of violation.
3. Violation C94-39-1-1 was written for conducting mining operations outside the approved permit area.

4. The activities of concern consisted of the excavation of gravel outside the permit area by a contractor of the permittee for use in constructing a pad within the permit area. The materials were being extracted immediately adjacent to the permit area and were used solely for construction within the permit area.

5. The inspection report lists the operator's negligence as "ordinary negligence." The operator testified that it believed that the contractor had obtained all necessary permits and that the excavation did not constitute permissible mining activity.

6. The surface damage extended to 1.5 acres and consisted of vegetative removal and loss of topsoil. No damage to water quality occurred.

CONCLUSIONS OF LAW

1. The extraction of gravel for the exclusive use of construction within the mine permit area constituted mining operations outside the permit area.

2. The negligence of the operator was ordinary negligence. The operator is entitled to good faith points for commencing immediate abatement.

ORDER

NOW THEREFORE, it is ordered that:

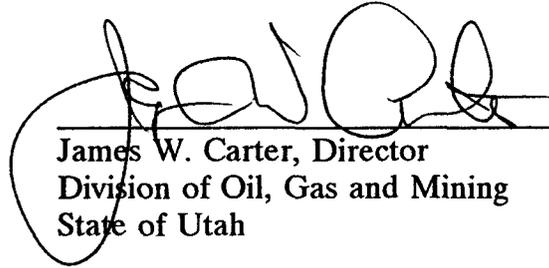
1. Violation C-94-39-1-1 is upheld.

2. The negligence points assessed are reduced to 12 points and the damage points are reduced to 18 points. The overall points assessed are therefore reduced to 50 points. The total assessed fine is \$1,000.

3. The finalized assessment is due and payable to the Division 30 days from the date of this Order.

4. The Petitioner may appeal the determinations of fact of violation and/or the finalized assessments to the Board of Oil, Gas and Mining 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 26th day of July, 1995.



James W. Carter, 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 for Cause No. ACT/007/033 to be mailed by certified mail, postage prepaid, on the 27 day of July, 1995, to the following:

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

A handwritten signature in cursive script, reading "Janean Burns", is written over a solid horizontal line.