



## U.S. Department of Labor

### News Release



**MSHA News Release: [03/20/2008]**

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**Release Number: 08-0399-NAT**

### **U.S. Labor Department's MSHA fines Utah coal operator \$420,300**

#### *Operator cited for flagrant violations involving fire and explosion hazards*

**ARLINGTON, Va.** — The U.S. Department of Labor's Mine Safety and Health Administration (MSHA) has assessed \$420,300 in fines against Andalex Resources Inc. for violations relating to potential fire and explosion hazards at the Aberdeen Mine in Price, Utah. Two citations issued Oct. 26, 2006, and June 20, 2007, were assessed as "flagrant violations" under the Mine Improvement and New Emergency Response (MINER) Act based on the operator's repeated violation of the same safety standard. Robert E. Murray controls Andalex Resources Inc., which operates the mine.

"Mine operators that repeatedly violate mine safety standards must be held accountable for their actions," said Richard E. Stickler, acting assistant secretary of labor for mine safety and health.

According to MSHA inspection records, the mine operator allowed excessive accumulations of hydraulic oil, and fine coal particles covered the hoses, electric conduit and tram motors on electric equipment. In addition, the mine operator allowed excessive accumulations of potentially explosive float coal dust and other combustible material to accumulate on a dangerously maintained conveyor belt. Such accumulations provide substantial fuel to propagate a mine fire.

These violations were cited during two routine regular safety and health inspections. A flagrant violation is defined as "a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory safety and health standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury." Under the MINER Act, a civil penalty of up to \$220,000 may be assessed for each flagrant violation. The two citations that were determined to be flagrant violations were assessed at \$220,000 and \$200,300.

**U.S. Department of Labor**  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210

**1-866-4-USA-DOL**  
TTY: 1-877-889-5627  
**Contact Us**

**Special Assessment Narrative Form**

**FLAGRANT Violations**

<b>Mine Operator:</b>	Andalex Resources, Incorporated		
<b>Mine Name:</b>	Aberdeen Mine		
<b>Mine ID/Contractor ID :</b>	42-02028		
<b>Citation/Order No.:</b>	7291294		
<b>Type of Action:</b>	104(d)(2) Order		
<b>Section 30 CFR:</b>	75.400		
<b>Mine Act:</b>			
<b>Issue Date:</b>	10/26/2007	7/26/2006	

			Regular Assessment	Special Assessment
Controller Size Points			10	20
Mine Size Points			14	14
Violation History Points			12	12
Repeat Violations of the same standard	>=20		0	25
Likelihood of Occurrence Points	Highly Likely		7	25
Severity of Injury or Illness Points	Fatal		10	35
Persons potentially affected Points	7		8	16
Negligence Points	High		20	35
Unwarrantable Failure	Yes		0	5
Imminent Danger Points	No		0	0
104(b) Order Points	No		0	0
Citation for Working in Defiance of an Order	No		0	0
<b>Calculated Penalty Points</b>			<b>81</b>	<b>175</b>
<b>Regular Assessment</b>			<b>\$11,500</b>	
<b>Dollar Reduction for Good Faith (30%)</b>			<b>\$0.00</b>	
<b>Proposed Penalty Amount</b>			<b>\$11,500</b>	
<b>Special Assessment Calculation from Table(s)</b>				<b>\$220,000</b>
Plus 25%				<b>\$220,000</b>
Minus 25%				<b>\$165,000</b>
<b>Proposed Special Assessment</b>				<b>\$220,000</b>

**Special Assessment Narrative Form**

**FLAGRANT Violations**

<b>Mine Operator:</b>	Andalex Resources Inc.	
<b>Mine Name:</b>	Aberdeen	
<b>Mine ID/Contractor ID :</b>	42-02028	
<b>Citation/Order No.:</b>	7287779	
<b>Type of Action:</b>	104(d)(2) Order	
<b>Section 30 CFR:</b>	75.400	
<b>Mine Act:</b>		
<b>Issue Date:</b>	6/20/2007	3/20/2006

			Regular Assessment	Special Assessment
Controller Size Points			10	10
Mine Size Points			15	15
Violation History Points			8	8
Repeat Violations of the same standard	>=20		12	25
Likelihood of Occurrence Points	Reasonably Likely		30	40
Severity of Injury or Illness Points	Permanently Disabling		10	40
Persons potentially affected Points	7		12	16
Negligence Points	High		35	50
Unwarrantable Failure	Yes		0	5
Imminent Danger Points	No		0	0
104(b) Order <i>Issue/Termination</i>			0	\$0
Citation for Working in Defiance of an Order	No		0	0
<b>Calculated Penalty Points</b>			<b>132</b>	<b>209</b>
<b>Regular Assessment</b>			<b>\$35,543</b>	
<b>Dollar Reduction for Good Faith (30%)</b>			<b>\$0.00</b>	
<b>Proposed Penalty Amount</b>			<b>\$35,543</b>	
<b>Special Assessment Calculation from Table(s)</b>				<b>\$160,395</b>
Plus 25%				<b>\$200,300</b>
Minus 25%				<b>\$120,200</b>
<b>Proposed Special Assessment</b>				<b>\$200,300</b>

High history of violations including special assessments for this standard merits a higher penalty.



**U.S. Department of Labor**  
**Mine Safety and Health Administration**  
**Office Of Assessments**  
**PROPOSED ASSESSMENT**



Certified Mail - Return Receipt Requested

Case Number: 000144078	Mine ID: COAL - 4202028	Case Date: 03/14/2008
Mine Name: Aberdeen		Mine Location: Carbon, UT 84501
Served To: Andalex Resources Inc (Operator - P17573)		

Upon reviewing the violations cited in the citations and orders referenced below and the data supplied by the Secretary's Authorized Representative, and all other information supplied concerning these citations and orders, MSHA finds that the violations cited did in fact occur and applying that data to the assessment regulations described in 30 CFR 100, MSHA proposes the penalty specified.

Pursuant to 30 CFR 100.7, you have 30 days from receipt of this proposed assessment to either pay the penalty, or notify MSHA that you wish to contest the proposed assessment and that you request a hearing on the violations in question before the Federal Mine Safety and Health Review Commission. If you do not exercise the right herein described within 30 days of receipt of this proposed assessment, this proposed assessment will become a final order of the Commission and will be enforced under provisions of the Federal Mine Safety and Health Act of 1977.

For violations assessed under the formula described in 30 CFR 100.3, the points assigned for the size of the operator (Column A) are derived from applying Subsection 100.3(b) of 30 CFR 100 using the size of your company and the size of your mine. The points assigned for the history of previous violations (Column B) are derived from applying subsection 100.3 (c) of 30 CFR, that is, the number of violations assessed per inspection day. The points assigned for negligence (Column C) are derived from applying subsection 100.3(d) of 30 CFR, that is, finding either no negligence, low negligence, moderate negligence, high negligence or reckless disregard. The points assigned for gravity (Column D) are derived from applying Subsection 100.3(e) of 30 CFR, that is, the likelihood of occurrence of the event against which the standard is directed, the severity of the injury or illness if it occurred or were to occur, and the number of persons potentially affected if the event occurred or were to occur. The points or percentage reduction assigned for the demonstrated good faith of the operator charged in attempting to achieve rapid compliance or the effects thereof (Column E) are derived from applying subsection 100.3(f) of 30 CFR, that is, finding either good faith or a lack of good faith. Single Penalty Assessments and Special Assessments are developed in accordance with Subsection 100.4 and 100.5 of 30 CFR respectively.

**Jay P. Mattos**

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 Acting Director, Office of Assessments

**Contest Information**

This is to advise you of your right to contest the Proposed Assessment, as provided under 30 CFR 100, for violations of the Federal Mine Safety and Health Act of 1977. 30 CFR 100.7 gives you 30 days to either pay the Proposed Assessment or contest the Proposed Assessment with the Federal Mine Safety and Health Review Commission.

**If you wish to contest and have a formal hearing on just some of the violations listed in the Proposed Assessment, check the specific violation numbers in the first column and mail a copy to the following address:**

Mine Safety and Health Administration  
 Civil Penalty Compliance Office  
 1100 Wilson Blvd., Room 2508  
 Arlington, VA 22209-03939  
 Telephone: (202)693-9700

**Payment Information**

To ensure that your payment is properly applied, please include the case numbers with all payments submitted. Please send all payments to the address shown at the bottom of this page.

This Proposed Assessment is Mailed To:  
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 Andalex Resources Inc  
 Attn.: James A Poulson - Safety Manager  
 794 North  
 Price, UT USA 84501

Payment Must Be Sent To:  
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 Department of Labor / MSHA  
 PO Box 790390  
 St. Louis, MO 63179-0390

Check For Contest	Citation/Order Number	S & S	Issue Date	Type of Action	Health or Safety Standard Violated	(A) Size of Operator		(B) History of Previous Violations				(C) Negligence Points	(D) Gravity			(E) Lack of Good Faith Penalty Points	Total Points	Penalty Amount Based On Total Points	Proposed Penalty
						Mine Points	Contoller Points	Number of Violations	Number of Inspection Days	History Points	Number of Repeat Violations		Repeat Violation Points	Likelihood of Occurrence Points	Severity of Injury Expected Points				
<input type="checkbox"/>	7291294	Y	10/26/2006	104(d)(2)	75.400	9	5	323	449									\$220,000.00	
<input type="checkbox"/>	7287779	Y	06/20/2007	104(d)(2)	75.400	15	10	316	359									\$200,300.00	
<input type="checkbox"/> I wish to contest and have a formal hearing on all violations listed in the Proposed Assessment(s)																			
Total Proposed Penalties for this Assessment Case																			
Outstanding Penalties																			
Case Number 000141599 Dated 02/26/2008																			
Case Number 000127964 Dated 10/02/2007																			
Case Number 000125867 Dated 08/28/2007																			
Case Number 000124122 Dated 08/06/2007																			
Total Outstanding Balances																			
Total																			
\$420,300.00																			
\$135,119.00																			
\$11,061.40																			
\$305.86																			
\$61,745.00																			
\$208,231.26																			
\$628,531.																			

Narrative Findings for a Special Assessment

Under 30 CFR 100.5, the Mine Safety and Health Administration may elect to waive the regular assessment formula contained in 30 CFR 100.3 or the single penalty assessment provision contained in 30 CFR 100.4 in determining the civil penalty for a violation of the Federal Mine Safety and Health Act of 1977, if it deems that conditions concerning the violation warrant. MSHA has decided to issue a special assessment in accordance with 30 CFR 100.5 for the following violation. MSHA has carefully evaluated the conditions cited and the inspector's relevant information and evaluation. The proposed penalty reflects the results of an objective and fair appraisal of all the facts presented.

On October 26, 2006, MSHA issued Section 104(d)(2) Order 7291294 at the Aberdeen Mine. Andalex Resources, Incorporated, was cited for a violation of 30 CFR 75.400.

The gravity of the violation was considered serious.

The violation resulted from the operator's high degree of negligence.

This violation was considered to be flagrant; that is, a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.

The number of previously assessed violations and inspection days at this mine, and the size of the mine and company appear on the attached Proposed Assessment.

Based on the six criteria set forth in 30 CFR 100.3(a) and the information available to the Office of Assessments, it is proposed that Andalex Resources, Incorporated, be assessed a civil penalty of \$220,000.

Narrative Findings for a Special Assessment

Under 30 CFR 100.5, the Mine Safety and Health Administration may elect to waive the regular assessment formula contained in 30 CFR 100.3 or the single penalty assessment provision contained in 30 CFR 100.4 in determining the civil penalty for a violation of the Federal Mine Safety and Health Act of 1977, if it deems that conditions concerning the violation warrant. MSHA has decided to issue a special assessment in accordance with 30 CFR 100.5 for the following violation. MSHA has carefully evaluated the conditions cited and the inspector's relevant information and evaluation. The proposed penalty reflects the results of an objective and fair appraisal of all the facts presented.

On June 20, 2007, MSHA issued Section 104(d)(2) Order 7287779 at the Aberdeen Mine. Andalex Resources, Incorporated, was cited for a violation of 30 CFR 75.400.

The gravity of the violation was considered serious.

This violation was considered to be flagrant; that is, a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.

The number of previously assessed violations and inspection days at this mine, and the size of the mine and company appear on the attached Proposed Assessment.

Based on the six criteria set forth in 30 CFR 100.3(a) and the information available to the Office of Assessments, it is proposed that Andalex Resources, Incorporated, be assessed a civil penalty of \$200,300.