

## **FINAL FINDINGS OF FACT AND DECISION**

### Coal Exploration Permit Wishbone Hill Exploration, Permit Number 01-86-795

The Division of Mining, Land and Water has reviewed the permit renewal request submitted by Usibelli Coal Mine, Inc (Usibelli). for the Wishbone Hill Coal Exploration Permit (01-86-795) and makes the following Final Findings of Fact and Decision in accordance with 11 AAC 90.165.

1. An application to renew Coal Exploration Permit No. 01-86-795 was filed with the Division of Mining, Land and Water on March 23, 2012.
2. Usibelli requested approval to drill up to 25 exploratory drill holes,. The renewal application contains all the information required by 11 AAC 90.163 and is sufficient for this office to make a decision.
3. The exploration permit application was sent out to the ADF&G, Office of Habitat Management & Permitting (OHMP), Department of Environmental Conservation and the U.S Fish and Wildlife Service. A preliminary review by MLW staff determined that an adjusted bond and further information on the project were necessary. This additional information included more detailed information about the drilling program, updates to background information and additional information on how the drill sites would be reclaimed. The application was deemed complete on April 13, 2012.
4. Public notice of this application began on June 7, 2012 and was scheduled to end on July 10, 2012. A legal ad was placed in the Anchorage Daily News on June 7, 2012. The notice was mailed directly to the Division's mailing list of affected persons and agencies and placed on the State's public notice website.
5. During the public notice period the department received comments from 98 individuals. Responses to comments concerning the proposed exploration program are located in an attached document titled "Appendix A: DNR Responses to Public Comments Concerning the Wishbone Hill Exploration Permit Renewal Application".
6. In accordance with 11 AAC 90.907(h) a Written Findings and Decision was completed. The public notice of these Findings of Fact and Decision started on August 10, 2012 and ends on Sept 10, 2012. A legal ad will be placed in the Anchorage Daily News on August 10, 2012. The decision will be distributed simultaneously to each person who filed a written comment, DMLW's list of affected persons, state and federal agencies, appropriate local government agencies and placed on the State of Alaska Public Notice Website.
7. The activities proposed in the permit meet the requirements of AS 27.21.200 and 11 AAC 90.163 through 11 AAC 90.167, subject to the stipulations of the permit, which ensure that the exploration and reclamation will comply with these requirements.
8. Blasting under this renewal is not authorized unless the applicant submits a detailed blasting plan and complies with 11 AAC 90.371 through 11 AAC 90.377

9. The approved permit area is not within an area designated unsuitable for mining under AS 27.21.260.
10. The proposed coal exploration activities will not affect threatened or endangered species or their critical habitat.
11. Pursuant to 11 AAC 90.167(b) the Division has determined that the posted reclamation bond in the amount of \$47,457.00 is sufficient to cover the associated reclamation costs. The portion of the reclamation bond for plugging and abandoning drill holes will be released upon inspection and documentation that they are capped and sealed and meeting the requirements of the permit and 11 AAC 90.303. The remaining bond for the reestablishment of the vegetative cover will be held for a minimum of one year and until there is at least 90 percent ground cover consisting of grasses and native vegetation has been established on disturbed areas (drill pads, trenches, trails, etc).
12. Appropriate water use authorization must be acquired prior to withdrawal of any protected water within or adjacent to the exploration area.
13. The following stipulations will be included as part of the final (complete) permit:
  - a. Unless approved by DNR, drill holes must be sealed and the drill sites must be reclaimed and reseeded before disturbing a new location.
  - b. In order to encourage native vegetation, Usibelli will minimize the use of seeding and fertilizer on reclaimed topsoil.
  - c. Usibelli will not conduct exploration activities that substantially disturb the environment within 100 feet of surface waters of Moose Creek or Caribou Creek.
  - d. No blasting is authorized under this exploration permit until a blasting plan is submitted and is noticed under 11 AAC 90.375.
  - e. All roads, access trails, and other impacted lands remain open to public use during exploration activities to the maximum extent practicable.
14. Issuance of an exploration permit does not relieve the applicant from the obligation to obtain approvals and permits from other federal, state, or local regulatory authority.
15. Copies of the Preliminary Findings of Fact and Decision, the Final Findings of Facts and Decision, and Response to Comments are available for review at the Alaska Department of Natural Resources, Division of Mining, Land and Water, 550 W. 7th Ave., Suite 920, Anchorage, AK 99501-3577, or on our website ([www.dnr.state.ak.us/mlw/mining/index.htm](http://www.dnr.state.ak.us/mlw/mining/index.htm)). The applicant or a person with an interest, which is or may be adversely affected by this decision may request in writing a hearing under AS 27.21.150 to review the reasons for this decision. The request for a hearing may be mailed or delivered to Daniel S. Sullivan, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, AK 99501; faxed to 907.269.8918; or sent by electronic mail to [dnr.appeals@alaska.gov](mailto:dnr.appeals@alaska.gov). The request for a hearing must be received within 30 days after the applicant is notified of this decision; the request must be received by 5:00 p.m. September 10, 2012.