

DATE: March 10, 2005

TO: Pat Galvin
Division of Oil and Gas
550 West 7th Avenue, Suite 800
Anchorage, Alaska 99501

RE: Comments on Usibelli Coal Mine, Inc. application for Gas Exploration in the Healy Basin

Dear Mr. Galvin,

I am submitting these comments on behalf of Denali Citizens Council. DCC, a community-based public interest group located in the Denali Borough, has worked since 1974 to raise awareness on issues affecting our livelihoods, our lifestyles and the well-being of Denali National Park and Preserve. We have 250 – 300 members, many of whom live or have lived in the gateway communities of Denali National Park. We appreciate the willingness of DNR personnel to travel to the Denali Borough and answer questions regarding gas development in general and coalbed methane development in particular.

These comments will reference the Healy basin gas exploration license application by Usibelli Coal Mine, Inc. The area of exploration, according to DNR, will be approximately 208,000 acres in the northern half of the Denali Borough.

We understand that under the law, DNR must prepare a Best Interest Finding to determine whether or not gas exploration and development are in the best interests of the citizens of the State of Alaska. We understand that the Best Interest Finding (BIF) document will contain an analysis of local habitat and wildlife; that it will consider the current and projected uses of the licensing area; that it will survey foreseeable effects of the licensed activity and specific issues surround gas and coalbed methane development; and that it will list mitigations. In addition, we understand that DNR will copy the Mat-Su Enforceable Standards into the BIF, with the understanding that local citizens will have at least a 60 day comment period on the adequacy of the BIF.

DCC Board and Staff

Nancy Bale
Jean Balay
Land Cole
Allen Cornelison

Nan Eagleson
Joan Frankevich
Grady Wilson

Leslie Adams
Sue Deyoe, Community Organizer
Linda Paganelli, Stampede Coordinator

We appreciate DNR's willingness to hold an informational meeting in the Denali Borough after publication of the BIF, followed by a Public Hearing during the 60 day comment period on the BIF. Four informational meetings have already been sponsored and advertised by Denali Citizens Council in the borough. We request that DNR advertise its upcoming meetings in the Denali Borough through mailed notice to all citizens there, through radio advertisement and through timely notification of the Borough Assembly and Planning Commission.

General issues and concerns

1. Inherent conflicts within the "best interest" concept.

We are aware that what might be deemed in the best interests of Alaskans as a whole might not be in the best interests of local citizens. We also understand that although DNR is the gatekeeper for development and has the power to deny access to the subsurface, that DNR takes its obligation to encourage gas development seriously.

2. Local citizens do not have an accurate concept of Usibelli's gas exploration plan.

At this stage, locals have not been presented with a coherent plan for exploration by Usibelli Coal Mine, Inc. Knowledge of plan specifics could make a difference in the acceptability of the effort to local citizens. The absence of a known plan, along with the ten year term of the proposed license, compels local citizens to exhibit a high degree of surveillance and knowledge of state regulatory procedures over time. Citizens are asked to find that an unknown procedure is in their best interests - a tough call, given the size of the lease area and the potential impacts. It is additionally troubling that no public process is mandated if and when exploration would convert to actual development. The fact that operational plans must be noticed and permitted does not allay our concerns regarding the overall procedure. DNR must provide assistance in this regard.

3. The inadequacy of existing law and standards.

We understand that there is an existing framework of regulations for gas development, including stipulations under the new law (HB 531), DNR's Enforceable Standards, and permitting authority from a variety of agencies (DEC, ADF&G, AOGCC to name a few).

The Enforceable Standards address numerous issues, but are a starting point only. Are DNR's recommendations to AOGCC being carried out? AOGCC's role in permitting downspacing of well pads has not been tempered. And, the Standards make no additional specific recommendations to DEC. Does this mean that DEC's air

and water quality permitting standards relating to shallow gas extraction are currently adequate? Would it not be more protective of Alaskans' best interest to promulgate actual regulations for shallow gas development rather than simply Standards? Regulations should apply across agencies, and address the unique water and air quality challenges of shallow gas.

In addition, we wonder if DNR has the budget to enforce stipulations of the Enforceable Standards. Will inspectors visit the borough? How often? Will the enforcement consist of fines, mitigations, work stoppage? We will enlarge on our concerns regarding the Standards approach after we have seen the draft Best Interest Finding.

We also understand that DNR has recommended to local communities that they establish ordinances to cover their lands. We remain concerned, however, that the Denali Borough has inadequate regulatory coverage for a major gas development effort on over 200,000 acres. If the Borough passes ordinances regulating CBM development, how will conflicts with state regulations be resolved?

4. Potential conflicts with existing planning efforts under way in the Denali Borough

Under the Tanana Basin Area Plan revision, DNR has asked the Denali Borough to make its municipal entitlement selections, and will re-classify any lands now unavailable for selection. The borough will follow with classification and planning for these entitlements. The possibility exists that gas development will conflict with as yet undetermined land classifications under TBAP, and as yet undeveloped comprehensive plans. The Denali Borough is relatively young. A free standing Planning Commission has just been formed. Comprehensive planning for the future is a distant prospect. Conflicts between community planning and gas development are certain and must be addressed.

Specific requests of DNR in preparation of Best Interest Finding:

- 1. Specify the rights of surface landowners in a gas development scenario.** Can a surface owner actually say "no" to development on his/her land? Folks are concerned about this, and DNR should spell it out exactly. In addition, the BIF should provide information on known impacts of gas development upon property values. DNR should include the "split estate brochure" proposed in the Mat-Su Standards in the BIF.
- 2. Specify Notification methods in the BIF.** All the citizens of the Denali Borough, not simply landowners within ½ mile of the activity, have the right to be informed by mail of any and all permit applications regarding gas exploration and development in the Denali

Borough. We suggest that the BIF establish a local ombudsman to maintain contact between DNR, the developer and local citizens on gas development issues.

3. Through consultation, address the conflict between special resource values of the state lands in the Stampede (Wolf) Townships and gas development.

The Tanana Basin Area Plan classified this cutout area surrounded by Denali National Park for “public recreation and wildlife habitat.” Existing uses for tourism are likely to conflict with the infrastructure of gas development. DNR should perform internal consultation with its own land planners, with ADF&G and with the National Park Service regarding the conflicting values represented by this area. The area is known wintering habitat for the Denali caribou herd. This consultation should be detailed in the BIF.

4. Address the conflict between user groups on public lands such as the Ferry Trail and gas development.

A great many locals and Alaska residents use the Ferry Trail, Rex Trail and other trailheads during hunting season. ADF & G biologist Don Young has indicated that the moose populations are dense in this region, and there is a relatively long period during which hunting can occur. In addition, local trappers use the region. DNR should make it very clear in the BIF what limits there might be under an active development scenario upon hunting access, habitat and future recreational uses of public lands. DNR should plan to meet directly with the local Middle Nenana Fish and Game Advisory Committee as part of information dissemination (Usibelli has already met once with the committee).

5. Address the conflict between areas suitable and currently used for residential development and gas development.

Many citizens are opposed to gas development within their residential areas. This would include not only well pads on their property but other infrastructure associated with gas development in their neighborhoods. We realize that there are stipulations regarding this in the Standards, but DNR must recognize that residential areas in the Denali Borough may not always meet the acreage stipulations of the existing Standards. Foreseeable future residential developments must also be kept in mind.

6. The BIF should address noise mitigation with the knowledge that baseline noise in the Denali Borough is likely to be much less than baseline in many areas of the Mat-Su.

Standards for noise should be as a percentage of baseline rather than a specific value. This will more accurately address the potential impacts in a largely rural area. The BIF should address the enhanced transmission of noise during cold temperatures.

7. **The BIF should provide details regarding implementation of mandated baseline water quality testing in the Denali Borough.** We understand that this is a legal mandate, and we urge DNR to be proactive with implementation. In addition, the state should address protection of aquifers that have a foreseeable potential for future use by the borough or individual citizens. As stated before, this borough is young, and local residential and town center development have not yet occurred. Simply prohibiting shallow gas development in aquifers that are currently used by people in the borough will not be sufficient.
8. **The BIF should state that Unit operational plans (establishing well pad spacing, transportation, access and pipeline plans) must provide a reasonable scenario for future developments as early as possible in the development process.** In a rural area whose economy and lifestyle depends on maintenance of habitat and scenic values, we are especially concerned regarding the incremental proliferation, over time, of roads, well pads, and pipelines. Because this will be incremental, local citizens may not have an adequate concept at each level of permitting as to the final results. We ask that the BIF mandate that the developer provide a long range plan of operations, as soon as it is feasible. Knowing at the outset how areas of the community could look after 20 years is imperative for accurate determination of “best interests.”
9. **The BIF should provide concrete examples of surface use agreements, their contents and the options for landowners in a gas development scenario.**
10. **The BIF should address how a surface use agreement for public lands might be devised.** There are a great many public surface holdings in the Denali Borough, mostly owned by the State of Alaska. The BIF should make clear to local citizens how DNR plans to care for its own surface in a gas development scenario. Will citizens of the State of Alaska be able to assist in the preparation of surface use plans for their common estate? Will the plans be developed solely using Enforceable Standards as a guide? Again, would it not be more appropriate to promulgate regulations based on the Standards in a public, multi-agency process?
11. **The BIF should provide a specific scenario for bond development on a parcel, using current dollars, as a way for individuals to assess their risk.** Although we recognize that

DNR has offered mitigation and compensation in the Enforceable Standards, this may not give sufficient comfort to residential, business and tourism operators. Private landowners who would prefer no gas development infrastructure on their property may be forced simply to negotiate for a bond, when in fact they would prefer to keep their land as it is. This is an ongoing concern where issues of subsurface development exist and is a new concern for the Denali Borough.

Although gas development could provide valuable assets for community development in the Denali Borough, there is no guarantee of this under current regulatory schemata. Royalties go to the State of Alaska with no current plan for pass through to the local borough. And, even with financial gain assured, reclamation guaranteed, and public process confirmed, long range impacts are a certainty. Water quality and disposal raise red flags. In areas of permafrost, roads once built will be permanent. In areas with formerly limited access, new roads and infrastructure could permanently change the picture for existing wildlife and amenity value. Instead of planning for gradual changes in their community based on comprehensive planning, citizens would have to cope with an infrastructure pre-determined by gas development.

With all these concerns in mind, we ask that DNR, in development of the Best Interest Finding, seriously consider exempting some parts of the lease area from gas exploration and development, and that the exemptions take into account public testimony, agency consultation, and both already identified and foreseeable values for public and private lands in the Denali Borough.

We ask that DNR keep in mind that unconventional or shallow gas development is a relatively young industry whose cumulative impacts are incompletely understood. Impacts from the use of fracturing chemicals, disposal of drilling wastes and disposal of produced water are not fully understood. In view of the many unknowns, we request that DNR adhere to the precautionary principle when setting Standards and determining "best interests."

We look forward to continuing communication with you on this issue. If you have any questions, feel free to call me in Anchorage at 277-3825, or call our office at Denali at 907-683-3396.

Sincerely,

cc. Representative David Guttenberg
Senator Ralph Seekins
Mayor Dave Talerico
Supt. Paul Anderson
Ms. Vicki Clark

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