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Attorneys for Appellants

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DENALI CITIZENS COUNCIL,)
)
Appellant,)
)
vs.)
)
ALASKA, DEPARTMENT OF) Case No.: 3AN – 10-¹²⁵² CI
NATURAL RESOURCES,)
)
Appellee.)
)
)

NOTICE OF APPEAL
STATEMENT OF POINTS ON APPEAL

Appellant Denali Citizens Council by and through counsel hereby give notice of appeal pursuant to Alaska Appellate Rule of Procedure 602 and AS 44.62.560 to the Superior Court of the State of Alaska, Third Judicial District, from the November 9,

2010, final administrative order and decision of the Department of Natural Resources, State of Alaska, Tom Irwin, Commissioner, on the Healy Basin Gas Only Exploration License, Final Best Interest Finding Request for Reconsideration.

Appellants submit the following information:

1. Party taking the appeal (RAP 602(c)(1))

Denali Citizens Council
c/o Peter Van Tuyn
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2. Decision being appealed (RAP 602(c)(1)(D))

November 9, 2010, final administrative order and decision of Department of Natural Resources, State of Alaska, Tom Irwin, Commissioner, on the Healy Basin Gas Only Exploration License, Final Best Interest Finding Request for Reconsideration, attached hereto.

3. Court to which appeal is taken (RAP 602(c)(1))

The Superior Court of the State of Alaska, Third Judicial District at Anchorage.

4. Proof of Service on parties (RAP 602(c)(1)(E))

Proof of service on Department of Natural Resources Commissioner Dan Sullivan, and Attorney General John J. Burns (in Juneau) is provided in the attached certificate of service.

5. Statements of Points on Appeal (RAP 602(c)(1)(A))

a. Whether the Department of Natural Resources violated the Alaska Constitution Article I, section 7, and Article VIII, sections 1, 2, 3, 4, 7, 8, 9, 10, 13, 14, and 16 by: i) failing to provide due process to appellants in its decision-making on the Healy Gas Only Exploration License; ii) failing to safeguard the public interest as required by Article VIII in the determination that the Healy Basin Gas Only Exploration License was in the best interest of the state, and iii) by allowing this disposal of public resources under the Healy Basin Gas Only Exploration License to proceed without a proper analysis under Article VIII. To the extent that the Department of Natural Resources relies on provisions in AS 38.05.035 to support its decision, the reliance on this statutory scheme is unconstitutional as applied. To the extent that AS 38.05.035 is interpreted correctly or properly as a legislative direction to the Department of Natural Resources that prohibits the agency from conducting the analysis required by Article VIII, then AS 38.05.035 is itself unconstitutional.

b. Whether the Department of Natural Resources violated AS 38.05.133(f) and AS 38.05.035(e), and (g) by failing to take a hard look at material and salient issues related to the scope, and likely environmental, economic, community and other effects of its decision, how mitigation measures and licensee advisories relate to that scope and

those likely effects, and how these failures lead to a failure of the Department of Natural Resources to appropriately determine the best interest of the State in deciding whether to issue the Healy Basin Gas Only Exploration License.

c. Whether the Department of Natural Resources improperly applied the law, including the Denali Borough Code and factors in AS 38.05.035(e) and (g), to its decision whether to issue the Healy Basin Gas Only Exploration License.

6. Filing Fees (RAP 602(c)(1)(B))


Appellant has concurrently submitted the filing fee of \$150.00 in accordance with Appellate Rule 602(c)(1)(B).

7. Bond on Appeal (RAP 602(e))

Appellant has concurrently submitted the bond on appeal of \$750.00 pursuant to Appellate Rule 602(e) and Appellate Rule 204(c)(1).

Dated this 8th day of December, 2010.

BESSENYEY & VAN TUYN, L.L.C.
Attorney for Appellants



Peter Van Tuyn, AK Bar # 8911086