



USIBELLI COAL MINE, INC.

Usibelli Coal Mine, Inc.
PO Box 1000
Healy, Alaska
99743
(907) 683-2226

June 13, 2014

Russell Kirkham
State of Alaska Department of Natural Resources
Division of Mining, Land, and Water
550 West 7th Ave, Suite 900 D
Anchorage, Alaska 99501-2650

RE: Response to Notice of Violation N-S0603-05292014-1

Usibelli Coal Mine, Inc (UCM) received a Notice of Violation (NOV) on June 5, 2014 regarding equipment crossing Hoseanna Creek. In the NOV the Department of Natural Resources (DNR) cites a violation of 11 AAC 90.491 Construction and Maintenance of Roads, Transportation and Support Facilities and Utility Installations. Essentially section 11 AAC 90.491(a) 1-8 requires that the operator conduct transportation activities such as stream crossings in a manner that prevents or minimizes erosion, downstream sedimentation, and damage to fish habitat. This crossing has been permitted under a valid Alaska Fish and Game (ADF&G) Fish Habitat Permit since 2007 and all operations have been conducted in accordance with the stipulations of this permit to prevent and minimize erosion, downstream sedimentation, and damage to fish habitat. This permit allows open water crossings. DNR stated in the NOV that crossing may only occur in frozen conditions. Additionally, there was no visible downstream sedimentation, erosion, nor damage to fish habitat noted during the inspection. There was some vegetation damage and a slight potential of erosion, which was immediately addressed by UCM by installing sediment control and seeding the area.

DNR also cites that UCM is in violation of 11 AAC 90.353 Stream Buffer Zones. DNR states that the original stream buffer zone waiver was only valid during pond construction. In a 2002 inspection report (cc'd to Glenn Waugh of OSM), DNR requested that UCM construct a road to the ponds from the main haul road. It was evident in subsequent inspection reports that DNR approved a stream buffer zone waiver for the entire reach of Hoseanna Creek from Bridge 3 to the ponds. The road is within 100 foot of the creek for most of its length. UCM has always conducted the Hoseanna Creek crossing within that reach of creek.

DNR has been copied on all correspondence with ADF&G regarding the stream crossing permits since 2007 and has observed this crossing during monthly inspections since 2002. DNR has never requested UCM to add additional language to the SMCRA permit documents. UCM would have complied with any DNR request to correct this omission at any time within the last 12 years. UCM is submitting this response to DNR in the requisite 10 days and asking DNR to reconsider issuance of an NOV for this action. UCM feels the more appropriate response would be to notify UCM that a minor revision is required to formalize this crossing in the permit documents.

If you have any questions or concerns regarding this request for a minor revision, please contact Tammy Scholten at 907-683-9734.

Sincerely,

A handwritten signature in black ink that reads "Fred Wallis". The signature is written in a cursive style with a large, looping initial "F".

Fred Wallis
V.P. Engineering
Usibelli Coal Mine, Inc.