

PRELIMINARY FINDINGS OF FACT AND DECISION

Western Arctic Coal Exploration Permit No. 03-84-795

The Division of Mining, Land and Water has reviewed the renewal request submitted by BHP Billiton Energy Coal, Inc. for Western Arctic Coal Exploration Permit (03-84-795) and makes the following Preliminary Findings of Fact and Decision in accordance with 11 AAC 90.165.

1. A request to renew Coal Exploration Permit No. 03-84-795 was filed with the Division of Mining, Land and Water on August 5, 2010. A preliminary review by staff determined that no additional information was necessary.
2. Exploration activities approved under the original permit authorized the retention, maintenance and upgrades of the existing remote camp and landing strip, geological mapping, outcrop sampling, a water catchment, beach coal storage, exploration drilling boreholes, a temporary landing strip on Omalik lagoon, overland travel on ASRC lands from Point Lay, Omalik lagoon and the exploration camp site and establishment and retention of Kuchiak Research Mine. The exploration area is approximately 40 miles south of Point Lay, Alaska, within the following townships (Umiat Meridian):

T1N, R41W through and including R44W

T1S, R41W through and including R47W

T2S, R41W through and including R48W

T3S, R41W through and including R49W

T4S, R41W through and including R50W

T5S, R42W through and including R51W

T6S, R42W through and including R55W

T7S, R42W through and including R55W

T8S, R42W through and including R55W

The application contains all the information required by 11 AAC 90.163 and is sufficient for this office to make a decision.

3. No revisions have been requested during this permit term.
4. The approved permit area is not within an area designated unsuitable for mining under AS 27.21.260.
5. The proposed coal exploration activities will not affect threatened or endangered species or their critical habitat.
6. Pursuant to 11 AAC 90.167(b) the Division has determined that the reclamation bond in the amount of \$259,979.00 is sufficient to cover the associated reclamation costs.
7. As part of this permit renewal, the department is reviewing a request by BHP Billiton to release drill holes drilled and completed during the 1992, 1994, 2007 and 2008 field seasons. BHP Billiton Energy Coal, Inc. has requested the Department release 62 drilled

holes including 21 drill holes from 1992, 12 drill holes from 1994, 9 drill holes (2007) and 20 drill holes (2008). As part of this request, BHP Billiton Inc submitted documentation and photos that sealing and grouting has been completed. In both June and August of 2010 the Department inspected the Western Arctic Exploration Area. During the inspection personnel visited 12 drill holes from the 1992 drilling program, 6 drill holes from the 1994 drilling program, 8 drill holes from the 2007 drilling program, and 20 drill holes from the 2008 drilling program. All of the drill sites inspected were sealed and grouted and the casings cut off or removed at ground level and caps were either welded or cemented on top. Inspected drill holes and surrounding areas appeared to be stable. The surface reclamation of 1992 and 1994 drill holes and surrounding areas was successful. The Department finds that the drill holes have been sealed in accordance to 11 AAC 90.303 and plans to release all 62 drill holes as requested by BHP Billiton. The reclamation bond held by the Department for these drill holes is \$57,860.00 and will be available for release after a final decision by the Department.

8. Any changes to the approved activities will require approval and modification of the posted reclamation bond.
9. The activities proposed in the renewal meet the requirements of AS 27.21.200 and 11 AAC 90.163, and 11 AAC 90.167, subject to the stipulations of the permit, which ensure that the exploration and reclamation will comply with these requirements.
10. Legal ads were placed in the Anchorage Daily News and the Fairbanks Daily News Miner on September 27, 2010. This notice was also sent to the Post Offices in the public posting area during the comment period. The notice was mailed directly to the Division's mailing list of affected persons and agencies.
11. Copies of the application and preliminary decision 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 at (www.dnr.state.ak.us/mlw/mining/index.htm). Written comments regarding this permit should be sent to Russell Kirkham at the address listed above, or by e-mail at russell.kirkham@alaska.gov. The deadline for written comments is 5:00 PM, October 27, 2010.