

Pete Praetorius
13329 E. Oceanview Rd
Palmer, AK 99645

May 19, 2010

Thomas Irwin, Commissioner
Department of Natural Resources
Office of the Commissioner
550 W. 7th. Avenue, Suite 1400
Anchorage, AK 99501

CC. Marty Rutherford, Deputy Commissioner
Dick LeFebvre
Dick Mylius, Director Division of Mining, Land & Water
Martin Parsons, Division Operations Manager
Russell Kirkham, Wishbone Project Geologist
Governor Sean Parnell

Dear Mr. Irwin:

I am writing to ask you to reject Usibelli's permit to explore and mine for coal in the Wishbone Hill area (permit number 01-86-795). I have read the Alaska statutes regarding surface coal leasing, and I believe that Title 27, Chapter 21, Section 260 will prohibit exploring and mining for coal in the Wishbone Hill area at this time. In the past, prohibiting exploration and mining may have been warranted, but now rejecting Usibelli's permit to explore and mine is the obvious alternative. Section b of Title 27.21.260 says that "A person or municipality having an interest that is or may be adversely affected may file a petition with the commissioner to designate an area as unsuitable for mining or to terminate a designation under this section." This letter should be considered a petition to designate this area as unsuitable for mining and to terminate the Wishbone Hill area as a designated coal mining area. Below I justify this stance.

Title 27.21.260-a and -d (A surface coal mine will be counter to planning activities of state and municipal governments) (Recent history does not reflect coal mining)

(a) The commissioner shall use competent and scientifically sound data and information in order to make objective decisions as to which areas of land are unsuitable for all or certain types of surface coal operations. The decisions shall

(1) reflect the planning activities of federal, state, and municipal governments

Settlement in the Buffalo Mine Road neighborhood was encouraged by both our local and state governments. The Mat-Su Borough Assembly recognizes Buffalo Mine – Soapstone as a Community Council District and has authorized the council to draft a Community Comprehensive Plan. After the state paved Buffalo Mine Road and provided grants for electricity lines, and the borough began providing road service to some roads and fire service to the Buffalo Mine-Soapstone community, the area became widely recognized as a residential neighborhood.

Thus, through planning decisions made by both the state and Mat-Su borough governments, the Buffalo Mine Road area has developed into a residential neighborhood, which includes several small business enterprises.

The Wishbone Hill permit area lies within the Matanuska River Valley, which is a historic coal mining district; the key word here is *historic*. Now the area adjacent to the Wishbone Hill lease has grown into a thriving community of 128 families with a combined borough assessed property value of \$15,730,000.00. These 128 families in the Buffalo Mine Road community are less than a mile, on the downwind side, of Usibelli's proposed mine site. Twenty-five families live within one-quarter mile of the mine site. Here is some additional information on the historic nature of the BMR neighborhood:

- In 1955 Jerry and Elizabeth Harrison lived on Buffalo Mine Rd, within one-quarter mile of UCM's proposed mine, along with several other families. Their daughter and son-in-law live on the property today.
- In 1960, Paul Omlin acquired the Premier Coal mine, which was on the West side of Moose Creek and bordering to the BMR neighborhood. Omlin's was a "mom and pop" operation; he dug coal and sold it to locals who used it to heat their homes.
- In 1971, a Moose Creek flood closed the Premier Coal Mine.
- In 1978, several subdivisions were platted and people started buying and building homes.
- In 1984, after Paul Omlin's death from cancer, Diamond Alaska Coal Co. and Japan's Electric Power Developments Corp. entered a joint feasibility study but never opened a mine.
- In 1997 Usibelli purchased the Wishbone Hill lease.

No mining has occurred in the area in nearly 40 years, and what mining did occur before that was inconsequential relative to UCM's proposed plans. Because a residential neighborhood was established for nearly 30 years at the time of Omlin's death, the lease should never have been allowed to be sold to the Alaska Coal and Japanese partnership. Likewise, the Wishbone lease should certainly not have been re-permitted by Usibelli in 1997 after the area had become thoroughly established as a residential neighborhood.

Subsection d of Title 27.21.260 says that "Subject to valid existing rights, the commissioner may not permit surface coal mining operations except those that existed on August 3, 1977." As illustrated above, all past mining in the Wishbone Hill area was historic. Neither Usibelli nor the Alaska Coal and Japanese partnership had an interest in the area prior to 1977. Thus, valid existing grandfather rights do not exist for the Wishbone Hill area. According to West's Encyclopedia of American Law (2nd ed.), "the term *grandfather clause*, in its current application, refers to a legislative provision that permits an exemption based upon a preexisting condition. For example, such a clause might allow an individual [or company], who has been in continuous practice in a particular profession for a specific period, to circumvent certain licensing requirements." Usibelli has not been "in continuous practice" of mining for coal in the Wishbone Hill area since prior to 1977. In fact, Usibelli has repeatedly stated in public that they "do not know yet" if it is feasible for them to open a Wishbone Hill mine. Obviously, one cannot both suggest that they are *not* doing something (mining) while at the same time claiming to be in the continuous practice of mining.

Title 27.21.260-c-2-A,B,&C

- (c) Upon receipt of a petition under (b) of this section, the commissioner (2) may designate an area as unsuitable for all or certain types of surface coal mining operations if the commissioner determines that the operations in the area will
- (A) be incompatible with existing state or local land use programs;
 - (B) affect fragile or historic land in which the operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems;
 - (C) affect aquifer recharge areas or other renewable resource land in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or food or fiber products; or

Usibelli's proposed exploratory permit, as well as their proposed mine in general, are counter to Subsection c of Title 27.21.260—primarily section 2-A, B, and C. I will address each of these in turn.

Subsection d of Title 27.21.260-c.2A requires that a surface coal mine be compatible with existing state or local land use programs. Usibelli's proposed exploration and mining permit is incompatible with both state and local land use programs.

First, the proposed mine, in that it is within the Matanuska Valley Moose Range, is incompatible with a state land use program. Although the legislation establishing the Moose Range mentions "coal entry," it says that "The primary purposes of the Matanuska Valley Moose Range are to maintain, improve and enhance moose populations and habitat and other wildlife resources of the area." Usibelli's proposed mine will severely impact hunters' ability to harvest moose, and it will negatively impact moose habitat and hinder the routine migratory habits of moose. It should be noted that since the Moose Range Plan was written, in 1986, more is now understood on how moose routinely migrate within their home range. To site a mine in this critical moose habitat will be incompatible with the "primary purpose" of the moose range. In addition to the originally stated purpose of the Moose Range—to improve and enhance wildlife habitat—the Matanuska Moose Range is an increasingly popular recreation destination. Recreational pursuits such as snow machining, hiking, hunting, skiing, kayaking, and mountain biking are all current uses that are directly in conflict with this proposed mine. The Moose Range plan is currently undergoing a revision, and it is very likely that the revised plan will include language that encourages recreational pursuits.

Second, Usibelli's proposed permit is also incompatible with local land use programs. As mentioned above, the proposed mine is adjacent to (within one mile) of a neighborhood of 128 families. Clearly, coal mine "operations in the area will" negatively impact nearby residents. Residents will be impacted in at least the following ways:

- **Health Effects of Coal Dust** The negative health effects of coal mining is well documented and includes Coal Workers' Pneumoconiosis (also known as Black Lung Disease or CWP), lymphoma, and many other ailments. The medical community's knowledge of the negative health effects of coal dust has greatly increased over the past

decade. Usibelli's permit to explore and mine for coal should be reevaluated in light of recent research on the negative health effects of chemical exposure to fall-out from coal dust. In 2008, the *American Journal of Public Health* reported that counties in West Virginia where extensive coal mining occurs suffer from more cases of chronic health problems as a result of mining activity. Coal mining in these communities was shown to lead to a 70% increase in the risk of kidney disease, a 64% increased risk of lung disease, and a 30% increased risk of high blood pressure in residents. These health effects seem to be the result of both toxic chemicals uncovered in the coal seams themselves, and of the polluting compounds used during mining and the operation of coal mines. Usibelli's proposed mine is directly upwind of nearby residents. As current experience in Seward shows, preventing coal dust from leaving a site is not economically feasible. It should also be noted that Rob Brown, Usibelli's Wishbone Hill Project Manager, is also the manager for the Seward coal loading facility. No number of jobs or any amount of money is worth one person's life.

- **Pollution from Blasting:** Explosives contain organic nitrogen compounds (TNT, PAA) that disintegrate down to inorganic compounds upon ignition. Toxic chemicals, such as nitrates, are released into the air during blasting. Both area residents as well as local fish and wildlife should not be exposed to these toxic substances.
- **Health Effects of Stress** The negative health effects of stress are well documented. Even assuming that dust will not escape the mine site—which is highly unlikely considering that it will be directly upwind from a neighborhood—the noise from equipment, trucks, and blasting will escape the mine boundary, and it has long been recognized that living next to an industrial area is stressful. Stress has been linked to even more physical ailments than coal dust, such as heart disease, cancer, and stroke. Usibelli's permit to explore and mine for coal should be reevaluated in light of recent research on the negative health effects of stress.
- **Youth Camps** Two youth camps are within a half-mile of the proposed mine. Stan Roach, the pastor of His Servant's Bible Camp, says that some of the children who come to his camp have physical and developmental problems. The Elks Club also operates a youth camp that borders the mine permit boundary. These children must not be subjected to the negative health effects from toxic coal dust or stress.
- **Local Business** Local Buffalo Mine businesses will also be impacted. The Buffalo Mine neighborhood is home to B&Bs and many other small businesses as well as many construction and remodeling projects. If this proposed mine goes in, the local B&Bs will lose business (who will want to vacation next to a loud coal mine?), and no further homes will be built (who will want to live next to a mine?), and there will be little incentive for residents to pay for remodeling or even basic maintenance because there will be little or no return on their investment.
- **Property Values** The assessed value of properties in the Buffalo Mine Road neighborhood is \$15,730,000.00—this figure is only for properties with structures and does not include raw land. Neighborhood residents' property values will be impacted. If a mine is to go in, it's highly unlikely residents will be able to sell their property for anywhere near the same prices were the mine not there—if they could sell their properties at all. Eventually, everyone grows old and retires; for most people, their homes are their number one investment. Three different Valley realtors have been consulted by area residents, and all agree that property values in the neighborhood adjacent the proposed

coal mine will plummet, and many property owners will be unable to sell their property should they wish to do so.

- **Borough Tax Revenue** The Borough has enjoyed unprecedented growth in the last few years, which has brought new residents to the area and, correspondingly, new revenue into the Borough coffers from property taxes. It is highly irresponsible for the State of Alaska DNR to engage in an act that will jeopardize property values (thus reducing Mat-Su Borough income).
- **State and Borough Encouraged Residential Development** The State of Alaska and Mat-Su Borough have long supported the settlement of the Buffalo Mine Road area: the state has paved and maintained the road, and the state has provided grants to bring in electric power. Since these two state-sponsored improvements, the population of the Buffalo Mine Road neighborhood has increased four-fold. To now allow for a mine to be cited adjacent to where people live is inappropriate. When this mine was permitted—over two decades ago—few people lived here. Usibelli and the coal mining industry had their chance then, and they cannot now turn back the clock.
- **Neighborhood Impact** Putting a coal strip mine in a residential neighborhood is an absurd idea. In every case where such mines exist in the middle of residential areas, the quality of life and health of the inhabitants have suffered. DNR's Russell Kirkham and Usibelli's Project Manager Rob Brown and Vice President Steve Denton have all said that “you will be impacted.” Denton even suggested at a Mat-Su Borough Assembly meeting on May 4, 2010 that a possibility existed that nearby residents’ windows may be “blown out” if the Usibelli Company made a mistake in their blasting calculations. (At this same assembly meeting one resident asked if area residents should wear safety glasses when in their homes.) By saying the residents “will be impacted,” Usibelli is acknowledging that nearby residents will have to live with the consequences of open pit mining, some of which include lung ailments, lowered property values, unsafe roadways, and non-existent trail access. It is highly irresponsible for the Alaska State DNR to engage in an act that will severely impact a neighborhood that is adjacent to a proposed coal mine.
- **Moose Creek** With the help of a National Fish and Wildlife Service grant of \$1,000,000.00, the Chickaloon tribe has removed a dam (left from historic mining activity) and restored Moose Creek to its original course. Since these restoration efforts, silver and king salmon have returned to Moose Creek. Fugitive coal and other dust, pollution from fuel spills and blasting compounds, and percussions from blasting at the proposed mine area will injure or kill fish and salmon eggs in Moose Creek. It’s been found that salmon eggs are extremely fragile and vulnerable to vibrations; percussions from blasting at the proposed mine and during exploration and mining will damage these fragile eggs. Usibelli’s permit to explore and mine for coal should be reevaluated in light of recent research on the negative effects that blasting will likely have on fish and salmon eggs in Moose Creek.
- **Economics Drawbacks** The economics of coal mining are short-lived and are not worth it. Many, many families adjacent to the proposed mine as well as all along the proposed trucking route will be forced to leave the area, which will adversely affect the local economy.
- **Borough’s new Economic Development Plan** An open pit coal mine will be in direct conflict with the Mat-Su Borough’s new (4/23/10) Economic Development Plan, which states that the borough should work to attract high-level jobs, facilities, research,

education, and training, while preserving the area's natural beauty and amenities. In addition, the borough's economic development plan urges decision makers to work to improve the Valley's negative image; turning the Matanuska Valley into a coal mining district will amplify rather than improve the Valley's negative image.

- **Disrupt community** This proposed mine will disrupt our peaceful community. With this mine will come blasting, 100 heavy dump trucks coming and going and service trucks and parts supplies for heavy equipment 24/7 365 days a year for 25 years. (This is according to Joseph Usibelli in an interview with the Anchorage Daily News in 2004).
- **Degradation our Community** The proposed mine will lead to more crime, less sense of community, danger for children and adults, higher taxes to support the mining infrastructure and road structure to support heavy coal trucks.
- **Tourism Industry** When visitors come to the Mat-Su Borough, they want to see the large produce we grow in the area, they want to see wild life (such as moose and bald eagles), they want to go fishing or hiking in our awesome backcountry areas. They don't want to see an ugly open pit mine or compete with coal trucks on the Glenn Highway, a designated scenic byway.

Subsection d of Title 27.21.260-c.2B As per Section B, the proposed Wishbone Hill mine and exploratory operations will negatively “affect fragile or historic land in which the operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems.” The proposed mine site encompasses the historic Chickaloon trail as well as many other historic trails that are widely used for recreation and hunting. The area also offers a rich fossil deposit that is popular with area professional geologists and amateur rock hounds. Finally, though perhaps ironic, the area has a rich coal mining history, and a surface mine will destroy a rich trove of as yet untapped archeological artifacts.

Subsection d of Title 27.21.260-c.2C As per Section C, the proposed Wishbone Hill mine and exploratory operations will negatively “affect aquifer recharge areas or other renewable resource land in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or food or fiber products.” The proposed Wishbone Hill mine and exploration permit area is especially close to residences and located in an anadromous watershed. Moose Creek is home to silver and king salmon. Placing an open pit coal mine immediately adjacent to Moose Creek will impact the salmon populations by polluting the water with fugitive coal and rock dust, fuel spills and blasting compounds, and percussions from blasting at the proposed mine area will injure or kill fish and fragile salmon eggs in Moose Creek. In addition, the proposed mine and exploration activities will adversely affect the levels of Moose Creek through changing the water table by radically altering the topography and diverting water for mining activities. The proposed mine will also negatively affect the ability of hunters to harvest moose and other game by limiting access and negatively impacting the populations of wildlife. Our renewable resources (water, salmon) are much more important than the environmental problems that will occur with coal mining.

In addition to affecting the aquifer recharge rate of Moose Creek, the proposed Wishbone Hill mine and exploration activities threatens to harm the recharge rate of wells on both the east and west sides of the mine permit boundary. As mentioned above, 128 families live immediately west, within one mile, of UCM's proposed mine and exploration area. Many of these families

have wells, and many of those wells are not very productive. On the east side of the proposed mine's permit boundary is the Palmer Correctional Facility, which also has a well that is not very productive. Before allowing Usibelli to explore and mine for coal, a thorough evaluation of the possible negative impacts to area wells should be conducted. If there is any reason to believe that Usibelli's exploratory and or mining activity might harm local well productivity, then Usibelli's exploration and mining plans should not be allowed to proceed.

Title 27.21.260-f "Determinations of unsuitability of land for surface coal mining must consider present and future land use planning and regulation processes at the federal, state, and local levels." The Wishbone Hill area is unsuitable for a surface coal mine because of its immediate proximity to a residential area, and such an industrial facility is directly counter to the Mat-Su Borough's Borough-Wide Comprehensive Plan. In the Plan's "Land Use" section, all the relevant goals oppose placing a large industrial facility—such as a surface coal mine—directly adjacent a residential area. (Two additional goals have to do with sprawl.) Here are the relevant goals:

- **Goal (LU-1):** Protect and enhance the public safety, health, and welfare of borough residents.
- **Goal (LU2):** Protect residential neighborhoods and associated property values.
- **Goal (LU3):** Encourage commercial and industrial development that is compatible with residential development and local community desires.
- **Goal (LU4):** Protect and enhance the Borough's natural resources including watersheds, groundwater supplies and air quality.
- **Goal (LU5):** Recognize and protect the diversity of the Borough's land use development patterns including agricultural, residential, commercial, industrial and cultural resources, while limiting sprawl.

Usibelli's proposed surface coal mine and exploration will pollute the air that borough residents breath, depress neighborhood property values, and damage borough water sheds and groundwater supplies—this industrial activity is directly counter to the Mat-Su Borough's Land Use Goals. Usibelli's proposed mine is also not compatible with residential development and local community desires. The Buffalo Mine—Soapstone Community has spoken loud and clear that the community does not desire a coal mine for a neighbor. The community voted unanimously to adopt a resolution asking DNR to extend the comment period for UCM's exploration permit by 60 days (DNR granted a two week extension). The community also voted unanimously to adopt a resolution asking the Mat-Su Borough to pass a setback ordinance prohibiting large-scale surface coal mining within three miles of a permanent residence. It is worth noting that the mine that Usibelli is currently operating in Healy would comply with the Mat-Su Borough's proposed three mile setback ordinance; UCM's Healy mine is a 5 miles away from the nearest permanent residence.

Both present and future land use planning for the Buffalo Mine Road area is in direct conflict with Usibelli's proposed open pit coal mine. As mentioned above, the State of Alaska and Mat-Su Borough have long supported the settlement of the Buffalo Mine Road area. The Mat-Su Borough Assembly recognizes Buffalo Mine – Soapstone as a Community Council District and has authorized the council to draft a Community Comprehensive Plan. The state has paved and maintained the road, and the state has provided grants to bring in electric power. Since these two

state-sponsored improvements, the population of the Buffalo Mine Road neighborhood has increased four-fold. The assessed value of properties in the Buffalo Mine Road neighborhood is \$15,730,000.00—this figure is only for properties with structures and does not include raw land.

Usibelli's proposed exploration and mining of the Wishbone Hill area is counter to way the Mat-Su Valley has grown. There is a good reason that the Mat-Su Borough is growing rapidly: the beautiful scenery, clean water, clean air, rural life-style, and relative peace and quiet make the Valley an attractive place to live; few places in America are left that offer this to its citizens. This proposed mine will lead to a lost scenic grandeur, which can never be recovered. I ask that you to reject Usibelli's permit to explore and mine for coal in the Wishbone Hill area (permit number 01-86-795). Title 27, Chapter 21, Section 260 will prohibit exploring and mining for coal in the Wishbone Hill area at this time. In the past, prohibiting exploration and mining may have been warranted, but now rejecting Usibelli's permit to explore and mine is the only and obvious alternative.

Thank you for your consideration on this important matter,

A handwritten signature in blue ink, appearing to read "Pete Praetorius", is written over a light blue rectangular background.

Pete Praetorius