

BEFORE THE ALASKA COMMISSIONER OF NATURAL RESOURCES

CASTLE MOUNTAIN COALITION, COOK)
INLETKEEPER, ALASKA CENTER FOR)
THE ENVIRONMENT, COMMUNITY)
ACTION ON TOXICS, ALASKA CHAPTER)
OF THE SIERRA CLUB, and CHICKALOON)
VILLAGE TRADITIONAL COUNCIL,)

Requestors,)

v.)

ALASKA DEPARTMENT OF NATURAL)
RESOURCES,)

Regulatory Agency,)

ALASKA MENTAL HEALTH TRUST,)
TRUST LAND OFFICE,)

Land Owner, and)

USIBELLI COAL MINE, INC.,)

Permittee.)

In re: Division of Mining Land and
Water's Renewal of Wishbone Hill
Coal Mining Permit Nos.01-89-796
and 02-89-796

ERRATA FOR RECOMMENDED DECISION

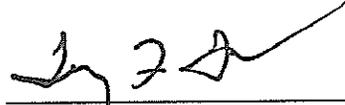
On page 12, at the end of the first full paragraph, just before the Recommendation, the last portion of the concluding sentence was cut off in the final editing, ending it with "status as" [no punctuation].

Instead, after "as" the sentence should continue with "an applicant for a water right affects their role in this renewal." The full sentence, as corrected, should read:

They have not shown that their status as an applicant for a water right affects their role in this renewal.

A corrected page 12 is enclosed for the reader's convenience.

March 21, 2015



By: Terry L. Thurbon, Hearing Officer

timely way because another is pursuing interest in water resource at or near the mine site. The interest, whether a perfected water right or something less—a pending application perhaps—the permit renewal review process can accommodate the interest holder’s participation without the renewal being derailed by the pendency of the water right adjudication.

Chickaloon is understandably concerned about protection of Moose Creek and its flow. The tribe has been involved in habitat restoration in the area. The renewal review process has allowed them the opportunity to raise water right concerns along with others. They have not shown that their status as an applicant for a water right affects their role in this renewal.

Recommendation: The commissioner should reject requestors’ request that this matter be remanded to the division for completion of the water rights adjudication before the renewal is finally decided.

D. Government-to-Government Consultation

Chickaloon has asked that the commissioner withdraw Usibelli’s permits and that the department “should work in direct, government-to-government consultation with the tribe.”¹⁷ The tribe asserts that it “is entitled to full governmental consultation and special consideration.”¹⁸ The briefing does not explain why, in this particular permit renewal matter, participation in public meetings and submitting extensive written comments was insufficient. The tribe’s briefing does object to the department’s release of draft permit documents for public comment without first consulting it.¹⁹ The same objection was made in Chickaloon’s 18-page comment letter.²⁰ It seems

¹⁷ Chickaloon’s December 3, 2014 Opening Brief at p. 14.

¹⁸ *Id.* at p. 7.

¹⁹ *Id.*

²⁰ November 15, 2011 Letter from Harrison (Chickaloon Executive Director) to Kirkham (DNR) at DMLW at p. 009068.