

Chuitna Coal Project Status Update for August 2008

Status of the Chuitna Coal Project

At this time a complete permit application package for the Chuitna Coal Project has not been submitted to the Division and no formal review under AS 27.21 and 11 AAC 90 has been initiated. Once the entire permit application package has been submitted an evaluation of the completeness of the application and of the cumulative impacts of the project can be undertaken.

During the month of August, no additional project components were received from PacRim.

DNR Website for the Chuitna Coal Project:

<http://www.dnr.state.ak.us/mlw/mining/largemine/chuitna/index.htm>

Currently on the website there is a brief introduction to the project and copies of previous month's newsletters. In the future, we will be making available all the presentation presented at the informational meetings and a list of all the agencies involved in permitting and reviewing this project and making portions of the permit applications available on this website.

Other State and Federal Permits

In addition to ASCMCRA permitting requirements, the Chuitna Coal Project must address the concerns of other state and federal agencies. As part of the Department of Natural Resources statutory role as lead agency in matters relating to exploration, development and management of mining activities, the DNR Office of Project Management and Permitting has developed a document describing some of the permits and approvals to help the public understand the permitting of mines in Alaska. This document and other useful information are available on the web at:

<http://www.dnr.state.ak.us/mlw/mining/largemine/index.htm>

Historic and Cultural Resources (Section 106 Review)

In order to preserve the cultural and historic foundations of the United States and guide federal agencies in how these resources are factored into their decision making process Congress enacted the National Historic Preservation Act. Regulations issued by the Advisory Council on Historic Preservation (ACHP) guide Section 106 review, specifying actions Federal agencies must take to meet their legal obligations. ACHP is an independent federal agency that promotes the preservation, enhancement, and productive use of our

nation's historic resources, and advises the President and Congress on national historic preservation policy. Federal agencies are responsible for initiating Section 106 review, most of which takes place between the agency and State and tribal officials. Appointed by the governor, the State Historic Preservation Officer (SHPO) coordinates the State's historic preservation program and consults with agencies during Section 106 review.

As part of the Chuitna Project, EPA initiated Section 106 review. Working with the Army Corps of Engineers, the state SHPO office, State and Local Government and regional tribes, EPA is working to develop a comprehensive plan (Programmatic Agreement or PA) to address cultural sites within and around the project area. This plan will include mitigation measures. What will happen when something new is found, how these resources will be cataloged and preserved when necessary.

The protection of Cultural and Historic properties is an important part of the ASMCRA application and permitting process. Any applications submitted to the Coal Regulatory Program must include Cultural and Historic Resources (11 AAC 90.041) and a plan to protect and minimize impact to these important places. The mitigation and protection measures adopted by the PA will be incorporated into any findings or permits issued for the Chuitna Coal Project.

For more information, a citizen's guide to the Section 106 process is available at:

<http://www.achp.gov/citizensguide.pdf>

and

<http://www.achp.gov/>

Chuitna Project SEIS

As part of the federal NEPA process the U. S. Environmental Protection Agency (EPA) determined that a Supplemental Environmental Impact Statement (SEIS) would be prepared for the Chuitna Coal Project. Scoping for the SEIS was completed in August of 2006. Currently agencies are reviewing the available baseline data in preparation to write the Draft SEIS. During March, EPA, the U.S. Army Corp of Engineers, and AK Dept of Natural Resources met with the company to discuss the status and timeline for the SEIS. Included in these discussions were updates to the companies proposed action and alternatives to be considered in the SEIS.

Information concerning the SEIS process can be found at:

<http://www.chuitnaseis.com/>

Petition to Designate the Chuitna River Watershed Unsuitable for Surface Coal Mining Operations

On February 14, 2008 the Commissioner for the Department of Natural Resources issued a decision in response to the request from Trustees for Alaska on behalf of the Petitioners to reconsider his prior decision. In his letter, the commissioner decided to affirm his July 16'

2007 decision. In the original decision the commissioner found that, 1. LMU-1 lands are ineligible from the petition process, on the grounds that they had previously been reviewed, underwent a comment period, and a decision to issue the permit was made, 2. the petition regarding the remainder of the “Chuitna River watershed” is incomplete, because the petitioners do not adequately describe how their interests are adversely impacted within the Chuitna Watershed, 3. the petition is frivolous because it covers too sweeping and arbitrary an area unsupported by evidence that reclamation of wetlands cannot be accomplished, and 4. assumes that applicable standards and regulations for surface coal mining operations cannot prevent the harms claimed in the allegations.

On March 17th, Trustees for Alaska appealed the Commissioner for the Department of Natural Resources final decision to the Superior Court of the State of Alaska.