

FINAL FINDINGS OF FACT

AND

DECISION

July 9, 2018

Flatlands Energy Corporation

Flatlands Coal (Canyon Creek Area) Exploration Project

Exploration Permit Application

E-1601

Final Findings of Fact and Decision
Exploration Permit Application
E-1601

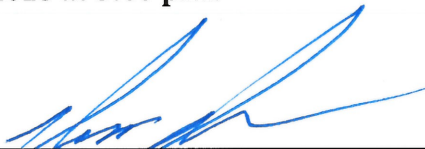
With regard to an exploration application submitted by Flatlands Energy Corporation, 11401 Olive Lane, Anchorage, AK 99515, the Division of Mining, Land and Water – Mining Section (DMLW-Mining) has reviewed the request, all written comments, and other relevant information received regarding the application and makes the following Findings of Fact and Decision in accordance with 11 AAC 90.907(h), in accordance with 11 AAC 90.907(h), under the authority of AS 27.21.030 and AS 27.21.100.

1. An application to issue a Coal Exploration Permit (File No. E-1601) was filed with the DMLW-Mining on April 12, 2018. The request for exploration was submitted in accordance with AS 27.21.200 and 11 AAC 90 161 and 11 AAC 90 163.
2. This exploration request is for a two-year term and includes an exploration area approximately 18 miles west southwest from the Skwentna airport, Alaska within Sections 6,7,18, 19, 30, 31, Township 20N, Range 13W, and Sections 1, 12, 13, 24, 25, 36, Township 20N, Range 14W, Section 6, Township 19N, Range 13W, and Section 1, Township 19N, Range R14W, all within the Seward Meridian. Approximately 8,960 acres of land are within the exploration area. The State of Alaska is the owner of the surface and subsurface mineral estate within the proposed exploration area.
3. Upon receipt of the complete application public notice was provided to the public in accordance with 11 AAC 90.907 (b) and public comments were received. During the Preliminary Findings Phase, the Exploration Permit Application was found to be complete on June 25, 2018. Public notice of the Preliminary Findings of Fact and the Exploration Application began on May 18, 2018 and ended on June 18, 2018. A legal advertisement was placed in the Anchorage Daily News on May 18, 2018. Also on May 18, 2018 the public notice was mailed directly to the DMLW-Mining mailing list of affected persons and agencies and was posted to the Department of Natural Resources website.
4. During the comment period seven individuals (including Agency and Public Interest groups) submitted comments in response to the public notice. Responses to comments concerning the proposed exploration program are located in an attached document titled "Appendix A: Department of Natural Resources (DNR) Responses to Public Comments Concerning the Flatlands Coal (Canyon Creek Area) Exploration Permit Application".
5. The decision approves the drilling of twenty exploration drillholes. All drill sites will be reclaimed and all drillholes not retained as monitoring wells will be sealed immediately upon completion of well logging and other exploration activities at the drill site. All equipment used on site will be removed upon completion of the exploration program. No road or trail construction is approved as part of this decision.
6. The activities proposed in the permit meet the requirements of AS 27.21.200 and 11 AAC 90.163 through 11 AAC 90.167, subject to the stipulations of the permit, which ensure that the exploration and reclamation will comply with these requirements.

7. The approved permit area is not within an area designated unsuitable for mining under AS 27.21.260.
8. The proposed coal exploration activities will not affect threatened or endangered species or their critical habitat.
9. Pursuant to 11 AAC 90.167(b) the DMLW has determined that the reclamation bond in the amount of \$17,160.00 is sufficient to cover the associated reclamation costs of twelve exploration holes. The portion of the reclamation bond for plugging and abandoning drill holes will be released upon inspection and documentation that they are capped and sealed and meet the requirements of the permit and 11 AAC 90.303. The remaining bond, for the reestablishment of the vegetative cover, will be held for a minimum of one year or until there is at least 90 percent ground cover consisting of grasses and native vegetation that has been established on disturbed areas (drill pads, trenches, trails, etc).
10. The following stipulations will be included as part of the final permit:
 - a. Unless approved by DNR, drill holes must be sealed and the drill sites must be reclaimed and reseeded before disturbing a new location.
 - b. All pads, trenches, and other ground disturbance will be limited to that necessary to complete exploration activities.
 - c. Allpads, trenches, and other disturbed areas are to be reclaimed after exploration activities are completed.
 - d. Exploration activities that substantially disturb the environment and vegetation clearing shall not occur within one hundred feet (100') of any anadromous water body.
 - e. In order to encourage native vegetation, Flatlands Energy will minimize the use of seeding and fertilizer on reclaimed topsoil and drill pads.
11. In accordance with 11 AAC 90.907(h) a Written Findings and Decision was completed. The public notice of this Final Findings of Fact and Decision begins on July 9, 2018 and ends on August 8, 2018. A legal ad will be placed in the Anchorage Daily News on July 9, 2018. The decision will be distributed simultaneously to each person who filed a written comment, DMLW's list of affected persons, state and federal agencies, appropriate local government agencies and placed on the State of Alaska Public Notice Website.
12. Issuance of an exploration permit does not relieve the applicant from the obligation to obtain approvals and permits from other federal, state, or local regulatory authority. As part of the application package, Flatlands Energy has provided to DMLW-Mining a copy of their Fish Habitat Permits (#FH18-IV-0199) and correspondences with DMLW Water Section concerning water withdrawals in the exploration area.

Copies of the Preliminary Findings of Fact and Decision, and the Final Findings of Fact and 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 (www.dnr.state.ak.us/mlw/mining/index.htm)

The applicant or a person with an interest, which is or may be adversely affected by this decision may request in writing a hearing under AS 27.21.150 to review the reasons for this decision. The request may be mailed or delivered to Andrew T. Mack, Commissioner, Department of Natural resources, 550 West 7th Avenue, Suite 1400, Anchorage , AK 99501; faxed to 907-269-8918; or sent by electric mail to dnr.appeals@alaska.gov A request for a hearing must be received within 30 days after applicant is notified of this decision. **The deadline to request a hearing is August 8, 2018 at 5:00 p.m.**



Russell Kirkham, CPG
Coal Regulatory Program Manager

July 9, 2018
Date

**Appendix A: Department of Natural Resources (DNR) Responses to
Public Comments Concerning
The Flatlands Canyon Creek Coal Exploration Permit Application**

Following are the responses to the written comments received from the public comment period (May 18, 2018 to June 18, 2018) for the Flatlands Coal (Canyon Creek Area) Exploration Application.

The DNR received a total of seven comment submittals via email. Of the seven comments submitted, one comment was from a State Agency. There were no comments from Federal Agencies. The table below breaks down comments based where the comments originated.

Applicant	1
Mat-Su Area	2
State Wide	1
Out of State	0
Non-Government Organizations	2
Community and Tribal Councils	0
Borough Government	0
State Agencies	1
Federal Agencies	0
Total	7

Responses to Comments:

Applicant Comment

Comment: The permit applicant submitted a comment to DMLW-Mining requesting to clarify the name of the proposed project. The applicant requested the name be changed to Flatlands Coal Exploration Project.

Response: To address the applicants concerns, the project name has been changed to Flatlands Coal (Canyon Creek Area) Exploration Project.

Supporting Statements

Comment: General comments were received that support the issuance of exploration permit for an increase in local jobs and income to Alaskans.

Response: These comments are acknowledged by DMLW.

Incompatible Land Use

Comment: Concerns were raised that the leases and any coal exploration permit flowing from them are unconstitutional.

Response: This comment is beyond DMLW-Mining scope of review of the proposed exploration permit application under 11 AAC 90. Flatland Energy has a valid coal lease from the State of Alaska.

The authorities, under which the DNR operate, were approved and ratified by the legislature upon the founding of Statehood in 1959. In Article VIII, Section 12 of the Alaska State Constitution, the leasing of State lands for the location and extraction of minerals is provided for: "The legislature shall provide for the exclusive right of exploration for the issuance, types and terms of leases for coal, oil, gas, oil shale, sodium, phosphate, potash, sulfur, pumice, and other minerals as may be prescribed by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law." The Alaska Legislature passed legislation that governs how coal is leased and regulated in the state. The land on which the leases have been issued is open to multiple uses and any development must minimize impacts to other uses in the area. The Legislature appointed DNR as the regulatory agency assigned to administer ASCMCRA (AS 27.21).

Environmental Concerns about Mining in General

Comment: Commenters opposed coal mining in the area because of negative impacts to the environment and that coal exploration, and eventual mining is not compatible with the natural of the area.

Response: The Division of Mining, Land and Water (DMLW) has carefully reviewed the proposed application and has determined that the impacts to the environment from the proposed activity are within the scope allowed by AS 27.21.200 and 11 AAC 90.163 through 11 AAC 90.167. In addition, the land within the proposed application is open to multiple uses and any development must minimize impacts to other uses in the area.

Comment: Concerns were raised that it is inappropriate to use water from the exploration area. This project needs for a temporary water use authorization. It may take up to 25% of any flowing waterbodies, including anadromous streams, in the project area to facilitate drilling operations.

Response: As part of the application, DMLW-Mining received a letter dated May 15, 2018 from Water Resources Section within the DMLW. It states that the Canyon Creek Exploration Project applicant is not required under Alaska law to submit an application for a Water Right or Temporary Water Use Authorization as Flatland Energy proposed water usage has been determined by the Water Resources Section to not meet the definition of “a significant amount of water use” as defined by 11 AAC 93.035(a) and (b) at this time. DMLW-Mining will monitor exploration activities for changes to the proposed water withdrawals and will notify the Water Resources section of any changes.

The Division has carefully reviewed the proposed exploration plan and has determined that the impacts to the environment from the proposed activity is within the scope allowed by 11 AAC 90.165 and 11 AAC 90.167.

Comment: Concerns were raised that there is a discrepancy in the application regarding environmental impacts resulting from exploration activities.

Response: The Application at section 6.2 (page II-3) clearly indicates that the application proposes exploration that substantially disturbs the environment as defined in 11 AAC 90.911(105). The application provides additional information on pages I-1, I-3, III-3, and III-4 provides additional information on the proposed activities. The comments quoted are only a portion of a statement concerning reclamation activities. As stated in the application, the project expects to disturb the surface: “Except for minor excavation with hand tools to level the drill platform or to construct a trench for drill cuttings, no significant ground disturbance is expected under the exploration program.” The comment on Page III-3 concerning additional material in meant to address concerns at 11 AAC 90.167 and 11 AAC 90.303 for the capping and sealing of drill holes.

The applicant is applying for a coal exploration application under 11 AAC 90.163 in a manner that will disturb the ground surface, and will be mended as set out in the application.

Bond

Comment: A comment was submitted indicating concern over the inadequacy of the bond amount to cover reclamation costs.

Response: As part of the application for an exploration permit, an itemized list of reclamation costs was provided in Page III-7 of the Application. After review of the bond amount the DMLW-Mining found that the bond amount of \$17,160.00 is adequate under 11 AAC 90.167(b) to cover the reclamation cost as described in Page III-7 Exploration and Reclamation Methods. In addition, DMLW-Mining will review the bond throughout the life of the exploration permit and will be update the bond as needed to reflect changes to the drilling and reclamation plan, on the ground conditions and changing fiscal environment.