



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office

P.O. Box 45155

Salt Lake City, UT 84145-0155

<http://www.blm.gov/ut/st/en.html>



IN REPLY REFER TO:

3474

UTU-77114(Flat Canyon LBA)

(UT-9223)

AUG 01 2012

Mr. David Finnerty, President  
Ark Land Company  
An Arch Coal Company  
One CityPlace Dr. Suite 300  
St. Louis, Missouri 63141

RE: Flat Canyon Lease by Application

Dear Mr. Finnerty:

Upon receipt of your letter of June 21, 2012, The Bureau of Land Management (BLM) consulted with the Forest Service, Intermountain Region and received the attached letter from the Forest Service dated July 17, 2012. This Forest Service letter states: "Therefore, the Forest Service has not yet consented to the leasing of the Flat Canyon Federal Coal Lease Tract as required by the Mineral Leasing Act."

Prior to leasing BLM is required to obtain the consent of the surface management agency, which in this case is the Forest Service:

*Leases for land, the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior, may be issued only with the consent of the head or other appropriate official of the other agency having jurisdiction over the lands containing the coal deposits, and subject to such conditions as that officer may prescribe to insure the use and protection of the lands for the primary purpose for which they were acquired or are being administered. 43CFR § 3400.3-1 Consent or conditions of surface management agency.*

Therefore, leasing of the Flat Canyon Lease by Application coal tract, UTU-77114, is pending Forest Service consent.

If you have any questions, or require additional information, please contact Jeff McKenzie of my staff, at (801) 539-4038.

Sincerely,

Roger L. Bankert  
Chief, Branch of Minerals

cc: Mr. Harv Forsgren, Regional Forester, USDA-Forest Service, Intermountain Region, 324 25<sup>th</sup> Street, Ogden, Utah 84401

Mr. Allen Rowley, Forest Supervisor, Fishlake National Forest, 115 East 900 North, Richfield, Utah 84701

Green River District Office

Price Field Office



2012 JUL 18 AM 9:10  
UTAH STATE OFFICE

File Code: 2820  
Date: JUL 17 2012

Mr. Juan Palma  
Utah State Director  
Bureau of Land Management  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

Dear Mr. Palma:

I sent the enclosed response to Mr. Roger Bankert, dated July 9, 2012, in response to BLM's request for the status of our consent to leasing of the Flat Canyon Federal Coal Lease Tract (UTU-77114). The enclosed e-mail from Jeff McKenzie in your office to Dale Harber, Forest Service Regional Minerals Liaison, sent on July 11, 2012, indicates there may be some confusion regarding the content of my letter. This letter is intended to clarify my letter of July 9, 2012.

The Forest Service has not completed the steps required by the *Forest Service Manual* (Sec. 2822.04c) to implement its 2002 decision to consent to the leasing of the Flat Canyon Tract by sending a letter of consent from the Regional Forester to the BLM. The Forest Supervisor for the Manti-La Sal National Forest completed an Environmental Impact Statement (EIS) in 2002, and issued a Record of Decision to support the issuance of consent by the Regional Forester. However, a letter of consent was never transmitted to the BLM by the Regional Forester, as required by Forest Service directives and internal delegations of authority. Therefore, the Forest Service has not yet consented to the leasing of the Flat Canyon Federal Coal Lease Tract as required by the Mineral Leasing Act.

In addition, since the environmental analysis was completed more than ten years ago, we wish to evaluate whether or not there is significant new information or if there are changed circumstances that would warrant a supplemental environmental analysis in accordance with *Forest Service Handbook* (1909.15\_10, Sec. 18.1) before the Forest Service consents to the leasing of this tract. We will conduct this evaluation in coordination with the BLM, as we would any request for consent to coal leasing, and will be seeking BLM's input as to whether there have been any changes in the reasonably foreseeable development scenario under the proposed lease since 2002, and the time frame for response to the leasing proposal. Based on the results of this evaluation, we will determine if the 2002 decision may be implemented by my issuance of a letter of consent, or if a supplemental environmental analysis and a new decision will be required.

UTAH STATE OFFICE  
STATE DIRECTORS OFFICE

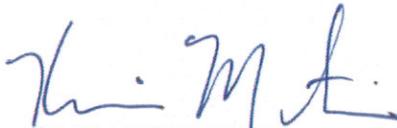
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Rogers



Please have your staff contact Dale Harber, Regional Minerals Liason, at 801-625-5147 or [dharber@fs.fed.us](mailto:dharber@fs.fed.us), if there are questions concerning this matter.

Sincerely,



HARV FORSGREN  
Regional Forester

for

cc: Allen Rowley  
Kathryn Conant  
Jeff McKenzie, [BLMjmckenzi@blm.gov](mailto:BLMjmckenzi@blm.gov)  
Roger Bankert, [BLMrbankert@blm.gov](mailto:BLMrbankert@blm.gov)

## Harber, Dale -FS

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**From:** McKenzie, Jefferson D <jmckenzi@blm.gov>  
**Sent:** Wednesday, July 11, 2012 8:09 AM  
**To:** Harber, Dale -FS  
**Cc:** Bankert, Roger L; Rigby, Steven W.  
**Subject:** Flat Canyon LBA

After your call yesterday, we went through the files again and did not locate a separate letter of Forest Service consent to lease for the Flat Canyon LBA tract in addition to the clearly stated consent in the Forest Service Record of Decision (ROD).

I reviewed this with Roger this morning and he stated that the consent decision in the ROD is sufficient for BLM to proceed with leasing. A confirmation of the Forest Service ROD consent decision in the Forest Service response to the BLM letter of June 14, 2012 will provide the necessary basis for the BLM to proceed with leasing.

Thanks for your call and views on this subject.

Jeff M.

Please note: We received a Forest Service letter yesterday indicating new supplemental NEPA would be required for Flat Canyon in addition to that already completed. Of course, the Forest Service can alter this as needed.

2012 JUL 18 AM 9:11  
UT-343

File Code: 2800  
Date: July 9, 2012

Roger L. Bankert  
Chief, Branch of Minerals  
Bureau of Land Management  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

Dear Mr. Bankert

A consent decision to BLM to lease the Flat Canyon Federal Coal Lease Tract (UTU-77114) was made 10 years ago by the Supervisor of the Manti-La Sal National Forest and was based on the Final Environmental Impact Statement, dated, January 2002. To date, no leasing action has been made by the BLM; and now, the National Environmental Policy Act (NEPA) analysis and decision previously made is "stale" due to changes in the resource conditions.

To consent to leasing in the future, a supplemental Environmental Impact Statement (EIS) will need to be prepared to include analysis of the Roadless, Unroaded and Undeveloped, Threaten & Endangered (T&E) species, Air Quality and other new issues identified by public scoping. A new decision will need to be prepared and signed by the Forest Supervisor. If the supplemental analysis and decision is done internally, it could take 2.5 to 3 years depending on funding, other forest priorities, and the availability of specialists. If an agreement could be made for the proponent to hire a qualified 3<sup>rd</sup> party contractor, time required for the analysis could be reduced.

For the interim, the point of contact on the forest will be Tom Lloyd, Minerals, Engineering, and Lands Staff Officer, at 435-636-3596.

Sincerely,

Is/Marlene Finley(for)  
HARV FORSGREN  
Regional Forester