

## DUHRING RESOURCE COMPANY

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April 7, 2008

Sent by Facsimile and Certified Mail

Leanne Marten, Forest Supervisor  
Allegheny National Forest  
P.O. Box 847  
Warren, PA 16365

RE: Timber Removal on Lot 8 and Warrant 3672

Dear Ms. Marten:

Your letter of April 4, 2008, contains errors:

- 1) In dealing with the Forest Service (FS), Duhring has not availed itself of the cut, skid and deck option. Five years ago (with FS permission) Duhring cut certain trees and pushed others over.
- 2) Your statement that the United States owns the timber is not complete. The United States owns the timber subject to encumbrances. The FS actions to date do not honor those encumbrances. Both Pennsylvania law and the FSM (Section 2403.1) require the FS to recognize those encumbrances, and I request that you finally do so.
- 3) Paragraph 3 of your letter misstates my sale proposal. I propose that Duhring advertise the timber for bid (using advertising and bid terms agreed upon by the FS and Duhring) while title is still vested in the FS. At bid opening Duhring will pay the high bid amount to the FS, at which time title will pass to Duhring. Duhring will then sell the timber to the high bidder. The advertised bid process is a fundamentally fair way to establish fair market value. I believe the only stumbling block to this proposal is the FS's lack of cooperative attitude, and I request that you reconsider.
- 4) Your list of options continues to ignore the option of timber removal by the FS. Removal by the FS is the action contemplated by the Court in Minard Run. Removal of timber by the surface owner is a common method of handling timber within the oil and gas industry in Pennsylvania. (The FS's protestation that it cannot sell the timber without

lengthy analysis belies the fact that if Duhring agreed to cut, skid and deck the timber, the FS would sell the decked timber immediately. The horizontal or vertical position of the trees does not govern our mutual obligations.)

Finally, I wish to note three matters. First, your option (that Duhring sign the agreement presented by the FS on April 3) is inflexible and inappropriate. Paragraph 2 of that agreement requires Duhring to pay for the cutting, skidding and decking of trees. Mr. Cotterman admitted that the buyer who purchases that decked timber will pay more for it because of the value added by the cutting, skidding and decking. This is an unjust bonus to the FS. In contrast, when the FS bids its timber in the context of other commercial sales, the consideration received by the FS is merely for the stumpage value (unimproved by cutting, skidding, decking, transport, milling, or any other labor added item).

On April 3 Duhring stated it was willing to cut, skid and deck, provided that Paragraph 2 of the FS agreement was removed (so that the issue of payment for cutting, stacking and decking could be left for judicial determination). The FS will not lose anything to which it is entitled by signing the agreement in that fashion. Instead, you have refused. You and the FS are using your bully power to punish Duhring unjustly.

Second, at the April 3 meeting, your staff members stated that Duhring should pay more than fair market value for the timber because the FS did not want the timber harvested. Mr. Fallon went so far as to point out that the "Spring Creek" decision determined that timber should not be harvested in the area of Warrant 3672.

Your demands are consistent with the brazen statements by your staff members. However, your demands, and the FS view that Duhring should pay more than fair market value, are inconsistent with the encumbrances by which the FS took title. Since we cannot agree on what price Duhring should pay for the timber (or even on what basis that price should be determined), I renew my request that the FS remove the timber immediately.

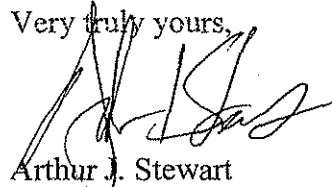
I am sending this letter to you because of the errors that underscored your decision. I will ask our attorney to pass a copy of this letter to Attorney Wiegand per your request. It is my hope that, with the correction of the errors cited above, you will accede to one of the several options requested herein.

If you do not change your decision, I believe that Duhring's next step will be to advertise the timber for sale via bid. Mr. Cotterman was quite adamant that the FS timber prices for Lot 8 and Warrant 3672 were both fair and still valid as of April 3. I wish to test that. I will advertise in local newspapers and distribute a prospectus containing maps and information about the timber. I will also mail that prospectus to timber purchasers. I trust the FS keeps a list of current timber purchasers on hand. I would appreciate your faxing that list to me by the end of this week. I request your prompt delivery of the list in the spirit of cooperation and mutual understanding which are supposed to govern our affairs as co-owners.

Finally, as to that spirit of cooperation, and your approach to resolving this impasse, I commend you to Chapter 2 of the ANF Handbook for Oil and Gas Administration. Relevant are your predecessor's following statements: "The mineral and surface owners are co-managers of the same tract of land. It is a two-way street, involving both parties." "The Forest Officer needs to function in a leadership role, not one of conflict and enforcement. The Forest Service is...not a regulatory agency."

The cooperative spirit discussed throughout that Handbook, and in other FS documents, existed on the ANF for decades. In the last three years, however, the FS has abandoned cooperative efforts and the principles of law and common sense summarized in the Handbook.

Very truly yours,

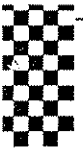


Arthur J. Stewart

AJS/ame

P.S. Your letter contains other errors concerning Duhring's right of access to the property commonly owned by Duhring and the ANF. I am, however, limiting this letter to the matters referenced above.

c: Anthony Scardina (by facsimile)  
Robert Fallon (by facsimile)



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**FACSIMILE TRANSMISSION**

**TO:** Leanne Marten

**FROM:** Arthur Stewart

**DATE:** April 7, 2008

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