



United States
Department of
Agriculture

Forest
Service

Allegheny National Forest
Supervisor's Office

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File Code: 2820-2

Date: May 2, 2008

Arthur J. Stewart
Duhring Resource Co.
P. O. Box 726
Sheffield, PA 16347

Dear Mr. Stewart:

I am writing in response to your April 30, 2008 letter. It is my understanding from your letter, and in visiting with my staff, that progress has been made in identifying specific terms and conditions applicable to Duhring Resource Company's actions to cut, skid and deck National Forest timber on Lot 8 and Warrant 3672.

In regards to specific inquiries raised in your April 30th letter, I ask that you please continue to work directly with the District Rangers and their designated representative regarding these questions. Information pertaining to Operating Plans may be found in Forest Service Manual 2831 and 2832.

Sincerely,

LEANNE M. MARTEN
Forest Supervisor



SENDER: COMPLETE THIS SECTION

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1. Article Addressed to:

Arthur Stewart
Dohring Res.
P.O. Box 726
Sheffield, PA 16347

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X *Amy Ei* Addressee

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2831 - MINERAL RESERVATIONS. Administer mineral reservations according to the applicable Secretary's rules and regulations as stated in the deed. In the case of a mineral right reserved prior to issuance of 36 CFR 251.15, Forest Supervisors shall require the reserved mineral owners or the lessee to submit an operating plan that incorporates all of the following:

1. Requirements of the Secretary's rules and regulations incorporated in the deed.
2. Restoration or reclamation of disturbed lands.
3. Repair or replacement of any improvements damaged or destroyed by the mineral operation.

Additionally, to the extent that bonding or payments may be required under the terms of the deed or applicable law, the mineral owner or lessee shall provide bond coverage or payment to a cooperative fund in order to comply with the terms of the permit.

If the operating plan is acceptable, the Forest Supervisor shall issue a reserved mineral permit to the record owner or lessee. Do not issue a reserved mineral permit until questions concerning the mineral owner's title and rights under the deed reservation are resolved. Consult with the office of the General Counsel on all such questions. Do not include in a reserved mineral permit requirements from other types of Forest Service permits or agreements unless these requirements are appropriate for the exercise of mineral reservations.

If the operating plan is not acceptable, the Forest Supervisor shall meet with the mineral owner or lessee to negotiate modifications needed to make the plan acceptable.

In some instances, there have been modifications of the applicable Secretary's rules and regulations attached to the deed. In these cases, seek the advice of the Office of the General Counsel.

Periodically review the status of mineral reservations to ensure that status is current and in accordance with the deed. Notify the Bureau of Land Management of changes in mineral ownership and revise Forest Service status records when mineral reservations expire (FSM 5490).

Where term mineral reservations provide for periodic extensions of time under certain conditions, monitor activity in a timely manner to determine whether or not the owner has met the conditions for extension. Consult with the Office of the

General Counsel and the Bureau of Land Management when there is some question as to whether or not the conditions for extension have been met. When a term mineral reservation is extended in accordance with the deed, Forest Supervisors shall document such extension by a letter to the mineral owner and shall revise Forest Service status records.

2832 - OUTSTANDING MINERAL RIGHTS. Administer the exercise of outstanding mineral rights as follows:

1. The mineral owner or lessee must provide the Forest Supervisor with proof of right to exercise mineral rights.

2. The mineral owner or lessee must provide the Forest Supervisor with 60 days advance written notice of surface occupancy by submitting a proposed operating plan.

3. The mineral owner or lessee must include the following information in an operating plan for the exercise of outstanding mineral rights:

- a. Location of roads and facilities.
- b. Areas to be disturbed.
- c. Methods of mineral extraction.
- d. Methods of disposal of mining and other wastes.
- e. Reclamation plans.
- f. Methods for control of erosion and prevention of water pollution.
- g. Identification of owner's or lessee's agent.

2832.1 - Review of Operating Plans. The Forest Supervisor must review the operating plan to determine whether or not it:

1. Uses only so much of the surface as is prudently necessary for the proposed operations.

2. Is consistent with rights granted by deed.

3. Is consistent with the forest land and resource management plan.

If the operating plan meets these three criteria, the Forest Supervisor shall send the owner or lessee a letter stating that:

1. The operating plan is consistent with the forest land and resource management plan.
2. The Forest Service intends to monitor operations to ensure compliance with the operating plan.
3. The owner or lessee must notify the Forest Service 60 days in advance of any major modifications in the operating plan.
4. Any unapproved deviation from the operating plan may be construed as unlawful, and the United States may take appropriate legal action.

2832.2 - Negotiation of an Acceptable Operating Plan. If an operating plan does not meet the three criteria in sec. 2832.1, the Forest Supervisor shall meet with the owner or lessee to negotiate modifications needed to make the plan acceptable. If negotiations are unsuccessful, the Forest Supervisor shall consult with the Regional Forester and the Office of the General Counsel before advising the owner or lessee, by registered letter, of the unacceptable portions of the plan and stating that implementation of these parts of the plan may require appropriate legal action. The Forest Supervisor shall forward a copy of such a letter to the Regional Forester.

2832.3 - Fees and Bonding. Charge fees only for those uses of the National Forest System that are beyond the scope of the outstanding mineral rights. Require bonding only to the extent provided under the deed of severance or applicable Federal or State law.