



United States
Department of
Agriculture

Office of the
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NOV 14 2008

James T. Marnen
Marnen Mioduszewski Bordonaro Wagner & Sinott, LLC
516 West Tenth Street
Erie, PA 16502-1352

FILE: LIT 2

SUBJECT: Duhring Resource Company v. United States Forest Service, Case
No. 07-314 Erie: Duhring Resource Company letters of November 7,
2008.

Dear Mr. Marnen:

Enclosed are two letters, dated November 7, 2008, from Arthur J. Stewart of Duhring Resource Company ("Duhring") to Forest Service District Rangers Anthony Scardina and Robert Fallon. The letters request from the Forest Service documents related to bids for, and the sale of, Forest Service timber, that was cut by Duhring off Lot 8 and Warrant 3672. The Forest Service forwarded the letters to this office for our review.

We do not see how the requested documents are needed for Duhring's current oil and gas development of Lot 8 and Warrant 3672. However, we are sure that you will acknowledge that the requested information is relevant to claims made by Duhring in the above-subject litigation. (We also note that Mr. Scardina and Mr. Fallon are named individual defendants in that litigation.) As such, these informational requests are more appropriately made by and of the attorneys of record, through discovery processes available in the litigation.

Nonetheless, as the requested documents are normally considered by the Forest Service to be public information, at this stage in the timber sale process, the Forest Service will provide them to Duhring.

In the future, though, we ask that informational requests intended to advance Duhring's litigative position be made by you, on behalf of your client, and directed to Attorney Albert Schollaert, of the U.S. Attorneys Office, pursuant to discovery mechanisms available in the existing litigation.

Thank you for your cooperation in this regard.

Sincerely,

JOHN M. VANDLIK

John M. Vandlik
Senior Counsel

Enclosures

cc w/ enclosures: Albert Schollaert, AUSA, Western District of PA

cc w/o enclosure: Anthony Scardina, Forest Service
Robert Fallon, Forest Service
Arthur J. Stewart, Duhring Resource Company