

DUHRING RESOURCE COMPANY

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April 16, 2008

SENT BY FAX & FIRST CLASS MAIL

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

Dear Ms. Marten:

I write in response to your letter of April 10, 2008. First, permit me to renew the meeting request I made in my March 5 letter. Confining all of our exchanges to letters is cumbersome. Several items remain for resolution.

Contrary to your letter of April 10, there is a difference between cutting, skidding and decking on the one hand, and how the ANF and Duhring agreed to handle the tree clearing in 2002, on the other. In fact, in 2002, the ANF sent a letter specifically acknowledging the parties' agreement that Duhring need not skid to a decking area. Your April 10 letter is written as though there is no difference between the 2002 tree clearing process and what you now demand in 2008.

Next, your letter of April 10 denies that Duhring must pay more than fair market value for the timber. However, Paragraph 2 of the ANF's proffered agreement requires Duhring to pay for the added value of cutting, skidding and decking. This results in the ANF's receiving (at Duhring's expense) more than fair market value for the timber.

Next, you have stated the ANF cannot sell the timber, but you have not provided a sensible rationale. I believe your stated rationale is that sale by the ANF would be a commercial sale, and that a commercial sale requires lengthy analysis. That rationale is belied by the fact that if Duhring would agree to cut, skid and deck the timber, the ANF would then sell that timber...without any analysis. It is not logical for the ANF to argue that its analysis obligation is dependent upon whether the timber is vertical on the stump or horizontal on the deck. In either case the timber is subject to Duhring's encumbrance (the right to remove it), and the timber will ultimately be removed regardless of the

outcome or performance of any governmental analysis. In other words, this is not a commercial sale -- it is a sale reflective of Duhring's encumbrance.

Last, even though your rationale for not selling the timber is unclear, Duhring has attempted to accommodate the ANF by suggesting that Duhring bid the timber under a mutually agreed advertising scheme, that the ANF sell the timber to Duhring for the high bid, and that Duhring sell the timber to the high bidder. This concept is simple and accomplishes our mutual goals. However, you have not responded to this suggestion except to state that Duhring does not have title to the timber. Of course Duhring does not yet have title to the timber. Transfer of title is one of the components of Duhring's suggested method. Your title objection is not responsive to Duhring's suggestion.

I request that the following items be on the meeting agenda:

- 1) We need to clarify what your April 10 letter confuses. Are you stating that:
 - (A) in 2008 Duhring may clear the trees in the same manner it did in 2002; or
 - (B) if Duhring wishes to clear the trees it must (at its own cost) cut, skid and deck the timber.
- 2) If the answer is "B," then we must clarify the rationale for the ANF's receipt (at Duhring's expense) of more than fair market value for the timber.
- 3) Duhring is willing to execute the ANF's proffered agreement provided that Paragraph 2 is deleted, so that a tribunal may later rule on Duhring's claim for reimbursement of the cutting, skidding and decking charges. Since this method preserves all of the items sought by the ANF, we must clarify the ANF's rationale for not agreeing to it.
- 4) We must clarify why the ANF will not sell the timber in a manner that recognizes Duhring's encumbrance thereon.
- 5) We need to obtain a response to Duhring's suggestion that Duhring advertise the timber for bid, that the ANF sells the timber to Duhring for the high bid amount, etc.
- 6) If the above agenda items do not reach an amicable result, we need to brainstorm other possibilities. Duhring is willing to pay funds into escrow or to engage in alternative appraisal methods.

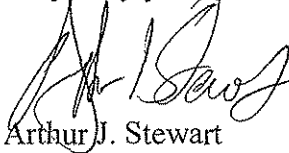
I am enclosing pages 3-8 and 4-58 of the ANF's 1986 LRMP and page 4-75 of the 2000 FEIS. These pages make clear that private oil and gas development will result in the clearing of ANF vegetation and that the timing of that private development is controlled by the oil and gas owner. I understand that the ANF does not desire its trees to be cleared from Duhring's locations at this time. But Duhring has a property right to clear the trees, as recognized by the ANF's own LRMP and FEIS. It is a right arising from long established case law and the instruments creating Duhring's title.

As to our current impasse I enclose the Introduction and the first page of Chapter 2, from the ANF Oil and Gas Handbook. Your predecessor notes that the hallmarks of our co-management relationship should be "cooperation" and "mutual understanding" in an effort to find "equitable solutions in all situations." I suggest that the two choices "allowed" thus far by the ANF are not understanding, cooperative, or equitable.

Finally, I note that the ANF has repeatedly threatened to use its law enforcement power to prosecute Duhring's representatives concerning this timber matter and other matters. At a legal level our differences of opinion are mere civil matters, and the threat of criminal prosecution is grossly inconsistent with the ANF' and Duhring's status of co-managers and co-owners of the parcels. At a personal level, the prosecution threats cause significant personal upset. Duhring's last agenda item is another request that you stand down from your many threats of criminal prosecution.

My partner and I are available to meet the morning of April 18, 2007, or anytime on April 21, 2008.

Very truly yours,



Arthur J. Stewart

AJS/ame
Enclosure

c: Mr. John Thomas
Mr. Paul Kucsma

Management Problem 5 - Private Oil and Gas Development

This nation's oil industry began 125 years ago within a few miles of the Allegheny National Forest. To date, 10 percent of the Forest's surface area has been developed for oil and gas production. Extensive oil and gas deposits still underlie the National Forest.

Almost 96 percent of the oil, gas, and mineral rights under the Forest are owned by the private sector. Development timing of these private rights is determined by the owners. The Allegheny National Forest encourages mineral resource development and works cooperatively with the private owners to reduce impacts to surface resources. Reducing the impacts may include such actions as relocating a proposed road to a better route, shifting a proposed drilling site to avoid a sensitive area, or providing stone to surface roads.

Public concern about the effects of the development are high. Oil and gas development requires road access which, if done cooperatively with the Forest Service, often results in lower costs for both parties. Most roads, however, disturb wildlife habitat and opportunities for recreation in a natural-appearing forest. If done improperly, oil and gas development can also cause sediment and chemical pollution of streams and, thus, be harmful to aquatic life and to humans. Development removes timber land from production during the period of oil and gas extraction.

The Allegheny National Forest policy on private oil and gas development is to foster a spirit of cooperation between the Forest Service and the developers to provide both surface and subsurface resource protection and development. In this atmosphere of cooperation, financial benefits are greatest for both parties and adverse environmental effects are reduced. The Allegheny National Forest also works with State and Federal regulatory agencies to ensure compliance with existing laws and regulations.

Resolution: The actual rate of oil and gas development may vary between the low and high demand projections. The Forest predicts the average rate will be closer to high than low.

The Forest Service will not pursue acquisition of subsurface rights across the Forest. Limited acquisition will be pursued in specific areas where

Energy Minerals

Federally owned minerals in Wilderness areas have been Congressionally withdrawn from leasing consideration. Congress directed the Forest Service to acquire approximately 10,000 acres of private mineral rights beneath the Wilderness Areas on a willing-seller basis. Currently 80 percent of these rights have been acquired and are now federally owned. The Nation will forego production of federally owned oil and gas reserves in the Wilderness Areas.

Privately owned minerals that are not acquired by the U.S. Government can be developed by the owners. Such development will cause a loss of wilderness values, such as solitude, undisturbed landscape, and natural vegetation in the developed area.

Mineral Materials

Rock sources will not be developed in Wilderness areas. Withdrawal of the mineral material resource reduces the land base available for exploration and development of rock sources by two percent.

Visual Resources

The young, even-aged forest existing today will gradually change to a mature, old-growth forest over the next 100 to 200 years. In the foreground, the old-growth forest will take on a more uneven-aged character as larger trees die from wind, insects, disease, fire, or old age and are replaced by small groups of young trees. Except for occasional catastrophic natural occurrences, such as widespread insect and disease epidemics or blowdowns, the forest canopy will appear unbroken. These changes will occur gradually over several centuries and will not be apparent to observers from decade to decade.

Water Quality

Effects of wilderness designation on water quality will depend on how much of a stream's watershed is within the wilderness area and how much disturbance occurs on private surface or from development of private subsurface ownership within a stream's watershed. Where a watershed is entirely within the wilderness area and

FWS personnel evaluated existing Forest Plan S&G's during this analysis and concluded that existing S&G's in the Forest Plan (Alternative 3) adequately protect water quality (habitat) for Clubshell mussel and Northern Riffleshell mussel with one exception. In Alternatives 1 and 2, proposed S&G 15 modifies an existing S&G to bring it into compliance with Best Management Practices (BMP), as outlined by the State of Pennsylvania. Proposed S&G 15 in Alternatives 1 and 2 results in a change in the way buffer zone widths are calculated. This change brings the Forest Plan in agreement with the BMP's outlined by the State of PA. The change in calculation results in a difference in buffer width from 0 - 8 feet, depending on the slope of the surrounding terrain. This minor difference in buffer width is not anticipated to have any effect on water quality - the change is being made to bring Forest Plan S&G's consistent with the State. The BMP S&G would not be changed in Alternative 3 therefore no effects to the Forest Plan water quality standards would occur.

There are monitoring requirements (Chapter 2) proposed in Alternatives 1 and 2 that would evaluate potential impacts to water quality (habitat) for Clubshell mussel and Northern Riffleshell mussel. This information would identify water quality problems in tributaries within the 13 percent subsection of the Allegheny River, should any arise. These monitoring requirements would permit earlier detection and correction of any subsequently identified water quality problems than would occur in Alternative 3. There are currently no water quality monitoring requirements in the Forest Plan.

Oil, Gas, and Minerals

In summary, there are minimal impacts to oil, gas, and mineral development activities on the ANF as a result of S&G's proposed in Alternatives 1 and 2. The changes that would occur are quite minor and/or localized in nature, and when considered at the programmatic level, result in little change to effects previously discussed in the Final Environmental Impact Statement (FEIS) prepared for the Forest Plan (FEIS, pp. 4-47 through 4-57). In Alternative 3 no new S&G's would be added to the Forest Plan; therefore, no effects to oil and gas operations would occur. Oil, gas and minerals would continue to operate under current direction.

Federal Oil, Gas, and Minerals

Since no Federal oil and gas development is anticipated during this planning period there would be no effect on Federal minerals from implementing Alternatives 1, 2, or 3.

Private Oil, Gas, and Minerals

ANF personnel work cooperatively with private mineral owners to emphasize environmentally responsible implementation of their subsurface ownership rights in areas where the surface of the land is in Federal ownership. Significant effects will continue to be mitigated through this educational and cooperative approach that maximizes financial benefits to both parties and minimizes environmental effects (Forest Plan FEIS, pp. 1-16 and 17).

Activities necessary to implement private oil and gas development include clearing of vegetation from rights-of-way and well sites, construction of roads/well sites/support facilities, installing the wells and collecting products from them, and disposal of produced fluids (Forest Plan FEIS, p. 4-47).

Oil, gas, and mineral owners/developers are responsible for complying with applicable State and Federal laws and regulations (Forest Plan, p. 4-46).

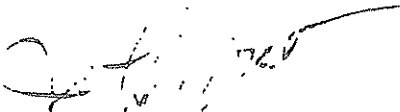
The effects of implementing S&G's 1 - 15 on private OGM development could result in minor localized adjustments to development plans if private mineral owners voluntarily comply with suggested guidelines. These changes could include minor modifications to site plans or road locations if specialized habitats for T&E species are in close proximity to the OGM site. In Alternative 3, there would be no change from current practice. In all cases, the private mineral owner bears the responsibility of compliance with applicable State and Federal laws and regulations.

INTRODUCTION

The "Handbook for Oil and Gas Administration on the Allegheny National Forest" provides guidance to Forest Service employees in the administration of the oil and gas program on the Allegheny National Forest.

The objectives of the handbook are (1) to establish a common understanding of the oil and gas program on the Forest, (2) to ensure consistency in administration of the program, and (3) to direct and guide Forest Service employees administering the program. The handbook is not part of the Forest Service Manual and is not a policy document. The material contained in the handbook draws on Forest Service policy, Allegheny National Forest direction, state regulations, and legal precedents and opinions. Direction provided by law, regulation, or the Forest Service Manual always takes precedence over direction in this handbook.

The handbook provides guidelines for most situations, but questions may arise that are not answered by the handbook contents. In such instances, the basic philosophy underlying administration of private oil and gas on the National Forest, namely cooperation and education, should be relied upon to provide guidance. A cooperative relationship between the Forest Service and the oil and gas industry facilitates finding equitable solutions in all situations. Education is the cornerstone of cooperation; mutual understanding of each other's needs through joint education by the Forest Service and the industry provides the basis for problem solving and successful management of both the surface and subsurface resources.


JOHN P. BUTT
Forest Supervisor

CHAPTER 2

ADMINISTRATION OF OUTSTANDING AND RESERVED RIGHTS

I INTRODUCTION

"The objective of the Forest Service in minerals management is to integrate the development and use of mineral resources for immediate and long range national needs with the use and conservation of other forest resources of the National Forest System lands under the various laws governing mineral disposal consistent with the principles prescribed by the Organic Administration Act of June 4, 1897 and the National Environmental Policy Act of 1969" as well as the Secretary of Agriculture's Rules and Regulations of 1911, 1937, 1947, and 1963.

Because of the legal environment in which the Allegheny operates, the Forest Service is aware of the petroleum reserve and when and where oil and gas development occurs. The Forest Service has the option of minimizing the impacts of oil and gas development. The following points are crucial and should be foremost in the minds of Forest Officers responsible for oil and gas administration.

1. The evidence of a successful oil and gas administration program is found in the field.
2. The mineral and surface owners are co-managers of the same tract of land. It is a two-way street, involving both parties.
3. The Forest Officer needs to function in a leadership role, not one of conflict and enforcement. The Forest Service is a resource-management agency, not a regulatory authority.
4. Successful resource integration is achieved through negotiations and recommendations between the Forest Service and the oil and gas industry. In a successful negotiation, each party gives and gains something. The Forest Service intends to gain in resource management. A major item we can give is time. Time is a valuable commodity to the oil and gas industry.
5. Private mineral operators of outstanding and reserved mineral rights on National Forest System land are permitted to use only as much of the surface as is "reasonably necessary" to effectively develop their mineral estate underlying the NFS lands.

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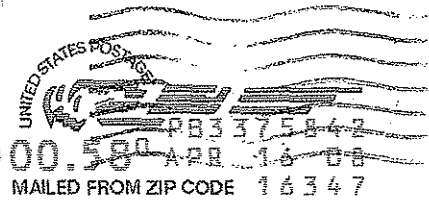
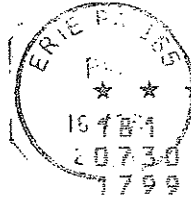
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