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02/20/2009 12:38 PM

To Rob T Fallon/R9/USDAFS@FSNOTES, Anthony Scardina/R9/USDAFS@FSNOTES

cc James Seyler/R9/USDAFS@FSNOTES, Glenn D Howard/R9/USDAFS@FSNOTES, Jim Apgar/R9/USDAFS@FSNOTES

bcc

Subject Duhring Resource Company - Language regarding pit development on NFS land

Hello Rob and Tony,

I am sending this e-mail for the purpose of information sharing. Duhring Resource Company (Duhring) has recently sent both Districts correspondence regarding Duhring's intent to expand and develop pits on National Forest System land. I will highlight portions of this correspondence below.

Letter from Duhring Resource Company (Duhring) addressed to Robert Fallon dated February 17, 2009 (RE: Stone removal Warrant 3672)

I write to request a progress report on the development of a stone borrow pit on Warrant 3672. You will recall your proposal, made at the end of 2007, to pursue an environmental assessment as to the stone source on 3672 and Duhring's choice for you to pursue that assessment. I would appreciate you updated me as the steps you have taken to date as well as the steps which must yet be completed.

Our experience with Shetler's timber confirms that stone will necessary on the surface of the roads. Also, I am informed by Mr. Thomas that the DEP will require the stoning of the roads' surface. I would like to drill the wells as soon as possible after the stone becomes available.

Please note: nothing in this letter waives Duhring's position that the environmental assessment is unnecessary.

Key Points to Note:

- Duhring is requesting an update regarding the Forest Service pursuing an environmental assessment to develop a pit on Warrant 3672.
- The environmental analysis is one consideration in the process. To the extent that the pit run material would be available to persons other than the Forest Service, that disposal would be governed by the provisions of 36 CFR 228 Subpart C. Please note the attached DRAFT DELIBERATIVE document Glenn prepared titled *2009.01.15 Saleable Mineral Procedure (draft).doc* to learn more about 36 CFR 228 Subpart C and Region 9 FSM Supplement 2800-2001-1 (also referred to as 2850-2001-1), which govern the disposal of mineral material.
- Duhring is stating that the DEP is requiring Duhring (and it can be assumed other operators) to stone its roads.

Plan of Operations for Lot 9 - Wells D-43, D-47, D-48, and D-49, and Access Roads - Submitted to the Allegheny National Forest (Bradford District) January 20, 2009 (Received on January 21, 2009)

Construction of the new roads and well locations will utilize stone from the existing pit located adjacent to F.R. 162 on Lot 10, or from the existing pit located adjacent to F.R. 162 on Lot 9. Alternatively, Duhring is prepared to explore for and open a new pit in the vicinity of the work to be performed. Adequate stone is prevalent adjacent to where the work is to be performed and if, for any reason, the use of stone from the Lot pit is not mutually satisfactory, Duhring will communicate with you as to Duhring's exploration for, location of, and development of the new stone pit. Tree removal at the stone pit may be necessary depending upon the pit locations.

Plan of Operations for Lot 9 and Lot 12, Wells D-44, D-45, D-46, D-50, 12-18 and Access Roads - Submitted to the Allegheny National Forest (Bradford District) January 15, 2009 (Received on January

20, 2009)

Construction of the new roads and well locations will utilize stone from the existing pit located adjacent to F.R. 163 on Lot 9. Alternatively, Duhring is prepared to explore for and open a new pit in the vicinity of the work to be performed. Adequate stone is prevalent adjacent to where the work is to be performed and if, for any reason, the use of stone from the Lot 9 pit is not mutually satisfactory, Duhring will communicate with you as to Duhring's exploration for, location of, and development of the new stone pit. Tree removal at the stone pit may be necessary depending upon the pit location.

Key Points to Note :

- Duhring is taking the position it is going to use stone on NFS land in close proximity its proposed development in both of the Plan of Operations.

DRAFT DELIBERATIVE - NOT FOR PUBLIC RELEASE - Saleable Mineral Procedure prepared by Glenn Howard dated January 15, 2009

Below is a document Glenn prepared in response the following question presented, "What procedures must the Forest Service follow to sell mineral material?" As noted in the title, this document is in a DRAFT DELIBERATIVE stage and should not be released to the public. It provides a very cursory overview of the procedures required to sell stone, and neither provides substantial detail regarding the requirements, nor provides analysis of where ANF is in the process. Glenn and Dan Salm may provide further information upon request.



2009.01.15 Saleable Mineral Procedure (draft).doc

If you need any clarification regarding the information noted above or assistance responding to Duhring's correspondence, please let us know (Jim S., Glenn or me).

Take care,

Paul

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