

**Robert T. Fallon, District Ranger, Marienville Ranger District, Allegheny National Forest
Record of Verbal Communications with the Office of Duhring Resources and Arthur Stewart
Warrant 3672, ANF OGM Case 595
October/November, 2007**

Including:

Robert T. Fallon to Duhring office
Duhring office to Robert T. Fallon
Arthur Stewart with Robert T. Fallon (phone and face-to-face conversation)

Early October 2007 Phone Exchanges (see attached personal cell phone records)

Note: On morning of October 2, 2007, I contacted both Lauren Miles and Mike Lewis to discuss making arrangements with Duhring Resources for a field visit to Warrant 3672. Lauren was not available, but I did speak with Mike. We discussed available dates, and I indicated that I would contact Duhring Resources directly to relay the proposal.

October 2, 2007, 8:19am, 3 minute call (see cell phone record)
Fallon personal cell phone to Duhring office @814-968-3337
Fallon called Duhring Resources office, left message for Arthur Stewart to contact me to arrange a meeting on site for Warrant 3672.

October 4, 2007, 4:19pm, 30 second call (message on cell phone)
Duhring Resources returned Fallon call,
Text of voicemail left by Gail Tachior of Duhring Resources on Rob Fallon's personal cell phone:
"Rob, this is Gail Tachior, from Duhring Resources Company,
And the reason for my call is I just want to let you know that
Arthur is available to meet you on either October 11 or October 12.
He'll meet you with an excavator.
He's available to meet you at 9 o'clock at the shop in Duhring.
If you want to call to confirm that, our number is 814-968-3337.
Thank you."

My cell phone records indicate that I spoke with Mike Lewis (my personal cell phone to his business cell phone, 814-688-8007), at 3:29pm on October 4, for 15 minutes. My recollection is that I spoke with Mike after receiving the message from Gail Tachior, and directed Mike to contact Duhring Resources to set the field date for October 11. I cannot explain the discrepancy, except to speculate that the billing record of the Lewis call may have reflected the change from daylight saving time, and the saved voice mail from Gail Tachior did not.

October 11, 2007 Field Visit

On October 11, Arthur Stewart, along with an employee or contractor hauling an excavator, met with Forest Service representatives at the entrance to the Yost residence on FR 131 at approximately 9am. Mr. Stewart spoke briefly with Forest Service representatives waiting for him in that location (including myself), and stated that he wanted to meet further down the road, where he could off-load the excavator and prep it to crawl up a Forest Service travel way (an old roadbed that is now part of the Spring Creek Horse Trail network) to the heart of the Warrant, where he

could test for stone. We hastily agreed to do so, and all reassembled at the base of FR 131 and old roadway. In addition to myself, the other Forest Service employees present were:

- Lauren Miles (FS Representative for Duhring's proposed O&G development),
- Mike Lewis (OGM Administrator – back-up to Miles for this case, and attending so he would be familiar with discussion and discoveries of this meeting),
- Hunter McClelland (civil engineer – present to assess quality of stone during test excavations, and to GPS test holes and potential pit development),
- Ran Cartwright (archaeologist – present to assure heritage resources were not disturbed during test excavations, and to discuss any heritage concerns with Duhring's well and road layout), and
- Terry Steffan (wildlife biologist – present to assure TES resources were not present or disturbed during test excavations, and to discuss any wildlife or TES concerns with Duhring's well and road layout).

Prior to initiating any excavation activity, Mr. Stewart and I spoke regarding our expectations for the day. I reiterated to Mr. Stewart what I had written to him on August 22, the Forest Service could not allow him to proceed with excavation of the surface on his Warrant for development of a stone pit without adequate analysis of effects and environmental documentation. I indicated to him that I was willing to consider conducting such an environmental analysis, at his request, if stone was present in sufficient quantity and quality, and that I had assembled the appropriate specialists to help him assess the potential for development of a new stone pit on the Warrant. I also noted to him that he should take the opportunity to test in the FR 403 stone pit, approximately 3 miles from the Yost entrance to the Warrant, as this source had already undergone the appropriate environmental analysis and documentation, and I was willing to make this source available to him, again at his request.

Mr. Stewart indicated that he did not agree with the Forest Service position that, regardless of ownership of the stone, the process of destroying the surface to access the stone required environmental analysis and documentation consistent with NEPA. He indicated that, although he disagreed with this position, he did want to debate it that day, and he was most interested in putting the excavator to work to determine if and where a suitable stone source was located.

With regard to the FR 403 stone pit, Mr. Stewart inquired if I had an answer to a question he posed in a September 24 letter to me, whether or not the Forest Service, would "pay compensation to Duhring for the additional dump trucks necessary to move stone from F.R. 403." I informed him that I could not imagine a circumstance under which the Forest Service would pay such compensation, but that I would discuss this personally with the Forest Supervisor to assure that I was not missing some perspective that would allow us to agree to his suggestion. I had the distinct impression that Mr. Stewart was primarily interested in testing for stone on the Warrant, and did not seem inclined to test the FR 403 pit, at least at that time.

I also noted to Mr. Stewart that any test hole locations that day would have to be approved by Miles, with input from Cartwright and Steffan, before he could commence digging. This is standard operating procedure for stone exploration, and I did not detect any objection from Mr. Stewart. I also suggested that he take the opportunity to discuss with Cartwright and Steffan some specific concerns and requests they had relative to his proposed well and road locations. He agreed to do so.

At that point, Lewis and I departed, and Mr. Stewart and the Forest Service employees started up the hill to begin testing for stone.

(Addendum: I spoke with the Forest Supervisor, Kathleen Morse, on October 24, regarding Mr. Stewart's request for compensation to haul from the FR 403 pit. Supervisor Morse stated that we would not compensate Mr. Stewart for hauling from a Forest Service stone source to his proposed development. I documented this decision in an email to Lauren Miles on 10/25, and asked him to relay this information to Mr. Stewart as soon as possible.)

Mid-November 2007 Phone Exchanges

November 16, 2007, 12:58pm, (phone call from Marienville office phone, 927-5799)

Fallon call to Duhring office @814-968-3337

Fallon called Duhring Resources office, left message with Amy for Arthur Stewart to contact me to discuss digging test holes for expansion of FR 403 pit. Amy responded that Mr. Stewart was out of the office but was expected back that afternoon, and she would pass along the message.

November 20, 2007, 10:29am, (phone call from Marienville office phone, 927-5799)

Fallon call to Duhring office @814-968-3337

Fallon called Duhring Resources office, left message with Amy for Arthur Stewart to contact me to discuss digging test holes for expansion of FR 403 pit. Amy responded that Mr. Stewart was in a meeting, and she would pass along the message when he became available. I asked Amy to ask Mr. Stewart if he should call and get my voicemail, to press "0" for our front desk and have me paged. I had to attend a meeting at 11am, and I informed the front desk to page me if Mr. Stewart called.

November 20, 2007, Mr. Stewart called my extension at 11:33am, got my voicemail, and advanced to the front desk. The front desk paged me, and I returned to my desk, where Mr. Stewart and I initiated our conversation at 11:36am. I noted to Mr. Stewart that I was in receipt of his November 9 letter, and that I was calling to clarify what I was offering at the FR 403 stone pit. I noted to Mr. Stewart that I had given East Resources approval, with the concurrence of Duhring Resources – since I had already promised that Duhring could have access to the stone in this pit at their request – to remove a small amount of stone surfacing material from the area of the FR 403 pit that had already been cleared and developed. East Resources, digging in areas where the Forest Service had indicated through test holes that material should be available, found no suitable material, and decided to revert to their original designated stone source for the well in question. I noted to Mr. Stewart that I was willing to authorize Duhring Resources to clear an additional 0.8 acre adjacent to the existing FR 403 development, since this activity had been approved in the 2004 Spring Creek ROD. I told Mr. Stewart that, if Duhring was interested in using this source, they should provide an excavator to test for stone in the adjacent areas of the pit; and I would provide an engineer to work with them to assess the material, GPS the locations, and, based on the outcome of the tests, prepare a pit development plan for Duhring's operation.

Mr. Stewart stated that he had not previously been aware that I was proposing an expansion of the FR 403 pit (see Fallon letters of 8/22 and 11/9). Mr. Stewart also indicated that he still needed me to submit, in writing, the estimated timeline that would be required for the NEPA process related to the proposed development of a stone source on Warrant 3672. I told him that I thought I had provided that timeline to him in my November 9 letter. I did not have a copy of that letter readily available, nor did he; so I told him I would be glad to provide this information and asked if he

would prefer an email or a letter. He stated that he preferred a letter, and reiterated that this information was important for his pending discussions with PA DEP on a possible extension of his deadline for plugging wells on Warrant 3672. I asked Mr. Stewart if he wanted to schedule a day in the field with a Forest Service engineer to test for the FR 403 pit expansion. He indicated that, based on the outcome of his conversation with the PA DEP, his preference was to not use the FR 403 pit, but to continue to pursue development of the stone source on Warrant 3672. I noted to Mr. Stewart that I would be happy to assist in his request for an extension from PA DEP, and could make a separate phone call, if he wished. He indicated that he did not think it would be necessary.

November 20, 2007, 11:49am, Mr. Stewart again called, again got my voicemail, again advanced to the front desk where he had me paged, and we initiated our second conversation at 11:50am. Mr. Stewart called back to let me know that he had perused my November 9 letter to him, and that it did indeed contain the timeline information he needed for discussions with PA DEP, and that I did not need to send this to him in a separate letter.



Robert T. Fallon
District Ranger
Marienville Ranger District
Allegheny National Forest

Prepared and Signed 11/27/2007