



United States
Department of
Agriculture

Forest
Service

Allegheny National Forest
Marienville Ranger District

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File Code: 7720-1

Date: November 28, 2008

Mr. Arthur Stewart
Duhring Resource Company
203 Center Street
PO Box 726
Sheffield, PA 16347

Dear Mr. Stewart,

I am in receipt of your letters of October 31, 2008 concerning the activities of Shetler Lumber Company in removing the decked timber on Warrant 3672, and of November 13, 2008 documenting your meeting on site with Ben Harvey, of Shetler Lumber, and Dave Cotterman, Forest Service Timber Sale Administrator.

I would first like to state that I agree with your characterization in the 10/31 letter of the circumstances regarding Shetler's attempted removal of timber with logging trucks from Warrant 3672 during the week of October 27, and our proposed remedy. When I queried Mr. Cotterman on October 29, his explanation of these circumstances was consistent with yours. As you know from our telephone conversation that day, I immediately instructed Mr. Cotterman to stop all work on the timber removal, and to have our Contracting Officer (Randy Durner) inform Shetler that they would not be permitted to use logging trucks on this project, and that they would not be permitted to resume operations without your approval and mine.

As I later discovered, and discussed with you by telephone on November 20, a clause had mistakenly been included in the Shetler contract that stated, "Subject to Forest Service approval, log trucks with self-loaders may be utilized to remove Included Timber from portions of the Sale Area to the designated haul route." I believe this clause, which is included in the Lot 8 Timber Sale, was inadvertently copied into the Warrant 3672 Timber Sale. It is my understanding that you will be receiving copies of these contract documents, as you had requested in your November 7, 2008 letter; and I trust you'll find this language as I described.

Regardless of the reason, it was my responsibility to assure that the conditions we had agreed upon for removal of the Warrant 3672 timber were included in the contract and followed on the ground. I am very sorry that neither occurred, and I am equally sorry for the damage this caused to your improvements, the stress it caused you upon discovering the transgression, and the impression it may have given you that I was insincere in agreeing to the conditions. And I am grateful for your understanding and patience as we develop a new strategy for removing this timber so you can proceed with your operations.

This brings me to your November 13 letter. Again, I agree with your characterization of the conversation held between Mr. Harvey, Mr. Cotterman and yourself. This is as Mr. Cotterman described it to me. And I appreciate your consideration of the use of logging trucks in frozen conditions. I think this a workable solution, particularly as I believe we can both agree that the template you have constructed on Warrant 3672 will support truck traffic in frozen conditions,



and I believe the template is constructed to a standard consistent with what the Forest Service would normally require in frozen conditions.

As we discussed in our phone conversation on November 20, I will agree to such an extension of time for Shetler Lumber to remove the decked timber from Warrant 3672 that allows them to operate a logging truck only during frozen conditions. Shetler may still remove the timber at an earlier time through the use of a forwarder (partially loaded to avoid rutting), or a skidder. In any case, they may not resume operations until they have notified you of their intentions, received your approval, and then received my approval. And Shetler will repair any damages already incurred, and any damages that may occur as a result of future operations (within these set conditions), to your satisfaction.

And, as we agreed in our November 20 phone conversation, you will proceed, in accordance with your timeline, to do what is necessary to meet your required E&S obligations (installing stone aprons at the culvert ends). If Shetler removes the decked timber and repairs any damages before you install this stone, they will have met their contract requirements to you and to the Forest Service. If Shetler removes the decked timber after you install this stone, they will be responsible for repairing any damage that occurs to the stone aprons as a result of your delayed pipeline installation.

This information will be relayed to Shetler Lumber in writing by the Contracting Officer, who will send you a copy of his correspondence and instructions.

If you have any concerns with what I have stated here, or should an unforeseen problem develop during the performance of the timber removal as described above, please call me (814-927-5799 or 603-393-8769). I sincerely hope we can get this done without further complication.

Sincerely,

ROBERT T. FALLON
District Ranger