

002913

DUHRING RESOURCE COMPANY
203 Center Street
P.O. Box 726
Sheffield, PA 16347

Phone (814) 968-3337

Fax (814) 968-3330

SENT VIA FACSIMILE AND REGULAR MAIL
February 17, 2009

Mr. Anthony Scardina
Allegheny National Forest
Bradford Ranger District
29 Forest Service Drive
Bradford, PA 16701

RE: Response to your letter of February 10, 2009

Dear Mr. Scardina,

Permit me to respond to your February 10 letter in the same order as presented by you:

ROAD PERMIT: It will be helpful for you to send the calculations. Thank you.

*Reference letter
X 6 x*

I acknowledge your intention for the ANF to also send 2009 road permits for billing and collection. As you know, Duhring does not agree with the ANF's unilateral imposition of the road permit and fee structure requirement. But if the ANF continues to insist upon using this process I must, again, inquire when you intend to reciprocate concerning the ANF's use of roads maintained by Duhring. You will recall that I have requested you to provide information concerning the number of log truck and skidder trips made over roads maintained by Duhring at Henry's Mills so that Duhring can receive the same road maintenance payments the ANF insists upon when the situation is reversed. You have never responded.

The respect that you seek for the ANF road maintenance procedure is (forgive the pun) a two way street. Why is it so difficult for the ANF to accord Duhring mutual respect?

LOT 8 WELL LOCATIONS: Your summary is accurate. Thank you. At our meeting, however, you did not yet know what steps would be involved in a trail move at well 86. Your letter advises an "assessment" will be involved and that it will take "additional time".

002914

In the face of that information I request that you separate wells 79, 87, 88 and 89 from well 86. There is no reason to further delay wells 79, 87, 88 and 89 while we wait for the ANF to go through the process the ANF imposes on itself as to well 86.

TIMBER: Last year the ANF refused to market the Lot 9 timber stating the ANF could not meet Duhring's 60 day time frame. (Please recall that the 60 days is not of Duhring's making. The 60 days is borne of PA common law, see e.g. T.W. Phillips Gas & Oil Co. v. Manor Gas Coal Co., 668 Pa. Super 372 (1917), the recitation of PA common law in the Minard Run decision, the recitation of that law in the Forest Service Manual (section 2830), and the 1992 Energy Policy Act 30 U.S.C. 226(o).)

In my letter of January 28, 2009 I asked you to market the timber even with the understanding the ANF will be beyond the 60 days. Yet in your letter of February 10, 2009, you state, again, the ANF's refusal to market the timber because such sale "would not meet the required time limits you have established." Following the logic of your response there must, then, be NO circumstance under which the ANF is willing to market the timber at the request of Duhring.

This is more than frustrating. The 1992 Federal Act calls for ANF marketing as one of the options. But your obligations go beyond Federal law. As co-owners we should be able to discuss and negotiate. I have made several suggestions for how we might handle timber situations beyond the two options you constantly repeat (pay your price or cut, skid and deck). Ms. Marten has refused to even meet with me to discuss those suggestions.

Once again, I request a meeting or that you market the timber. Recognizing that the ANF will probably not do either of those things please immediately send me the ANF's dollar amount, volume, species, and tree count as to the lot 9 timber. Duhring will see if it can find anyone to purchase the timber at the ANF price.

Very truly yours,



Arthur J. Stewart

AJS/gst