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Energy in the Law

United States Forest Service Proposes Directive on Groundwater Resource Management

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Comment period closes August 4, 2014

The United States Forest Service has proposed to amend its internal agency directives applicable to the management of groundwater resources on National Forest System (NFS) lands. 79 Fed. Reg. 25815. The proposed revisions require analysis of groundwater resource impacts as part of NFS land use decisions.

According to the proposal, the Forest Service manages 193 million acres of federal lands, much of which is located in the headwaters and recharge areas of streams and aquifers, and NFS lands provide drinking water sources to people in over 40 states. Yet, according to the proposal, the Forest Service does not have a comprehensive directive in place for groundwater management on NFS lands.

A summary of the proposed directive's provisions is provided below, including the directive's potential impact on oil and gas leasing and operations. Generally:

- Groundwater and surface water would be assumed to be hydraulically connected unless otherwise demonstrated, and Forest Service management efforts would be focused on portions of the groundwater system that if depleted or contaminated would adversely affect surface water resources;
- The Forest Service would require implementation of appropriate water conservation measures for special uses involving groundwater resources;
- Measuring and reporting on withdrawals and injections would be required;

- Consideration of groundwater impacts would be required for all proposed and already-authorized groundwater uses on NFS lands; and,
- Mitigation may be required for all major groundwater withdrawals and injections.

79 Fed. Reg. at 25816.

As applied to oil and gas operations, the directive would require the Forest Service to:

- Evaluate the potential effects of oil, gas and coal-bed natural gas exploration and development on groundwater resources prior to consenting to lease NFS lands and prior to approving surface use plans of operations for those purposes;
- Work with BLM and agencies with Safe Drinking Water Act jurisdiction to develop terms for leases and surface use plans requiring monitoring and protection of water resources on NFS lands during oil, gas, and coal-bed natural gas exploration and development; and,
- Evaluate the capability of local geological formations to accept injected production waters from oil, gas, and coal-bed natural gas development operations.

79 Fed. Reg. at 25819.

The Forest Service has emphasized that this directive will not impose any new conditions on state-issued water rights, affect existing or future tribal water rights or water compacts, impose new regulation on locatable, leasable, geothermal or mineral material operations, or give the Forest Service any new authorities.

As previously noted, the comment period for this directive is open and comments will be accepted through August 4. If you have any questions concerning this proposed directive, please do not hesitate to contact [David Scott](#) at Beatty & Wozniak.