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Forest Service transfers oil, gas development permissions

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In response to four separate lawsuits against the U.S. Forest Service, its Eastern Region headquarters has assumed responsibility of granting permission to oil and gas producers on the Allegheny National Forest.

Regional Forester Kent P.

Connaughton informed ANF personnel that the region's headquarters, located in Milwaukee, Wis., will review all future and outstanding applications for oil and gas development as of Jan. 1.

Previously, the ANF's district rangers were responsible for granting permission to oil and gas producers. Before producers can begin developments on the forest, the district rangers

had to issue a "Notice to Proceed."

Eastern Region Appeals and Litigation Coordinator Joel Strong said that since all the lawsuits have competing interests, the Milwaukee office decided to review all applications — outstanding and future.

"We will review all the permits that the (ANF) has yet to take action upon,

(See ANF, Page 12)

From Page 1

ANF

including all future applications,” Strong said.

Strong added that in taking over the responsibility, headquarters’ officials will try to assess the documentation in the applications and review how the ANF has previously decided to grant or deny permission.

ANF spokeswoman Kathy Mohny previously told the Olean Times Herald that there are more than 12,000 active wells on the forest — more wells than are on the other 154 national forests combined.

Environmental groups see the indefinite transfer of power as a victory for the environment.

“After years of allowing oil and gas companies to run rampant across Pennsylvania’s only national forest without stipulations to protect surface and water resources, the Forest Service is finally attempting to comply with the law,” said Ryan Talbott, forest watch coordinator for the Allegheny Defense Project, an environmental advocacy group focused on protecting the ANF.

ADP is a co-plaintiff in one of the lawsuits against the Forest Service, claiming ANF officials are not doing enough to protect the forest against oil and gas development. Along with the Sierra Club and Forest Service Employees for Environmental Ethics, ADP is seeking a ruling that will force ANF officials to comply with the National Environmental Policy Act.

Currently, the ANF does not require a NEPA analysis on oil and gas proposals. NEPA stipulates that all federal actions that may potentially disrupt the environment must include, among other items, public input and an environmental impact statement.

However, oil and gas producers argue that NEPA is not required for oil and gas developments because the forest service does not own the property in question. Approximately 93 percent of the forest’s sub-surface is owned privately, and producers say, citing state law, that they must be given reasonable access to their property. Pennsylvania law says mineral rights are the dominant estate in a split estate.

While environmental groups sued the forest service for being too lenient on producers, two of the other lawsuits brought against the ANF claim the forest is overstepping its authority to regulate.

The Pennsylvania Oil and Gas Association (POGAM) and Duhring Resources Co. have filed separate suits, arguing the forest service does not have the authority to regulate private oil and gas development.

In 2007 the ANF officials submitted its updated management proposal only to have the Forest Service chief return it in 2008 with stipulations that ANF officials clarify their authority to regulate oil and gas developments.

In July, POGAM offered its legal analysis of the situation to ANF planners.

Its analysis said, in short, that the ANF had a “limited non-regulatory role” in dealing with proposals, and that NEPA did not apply in “the exercise of severed private oil and gas property rights on the ANF.”