

October 1, 2014

USDA Forest Service
c/o Elizabeth Berger, WFWARP
201 14th Street SW
Washington, DC 20250
Docket ID: FS-2014-0001

Re: Comments on the Proposed Directive on Groundwater Resource Management; Forest Service Manual 2560

The New Mexico Association of Commerce and Industry (ACI) submits these comments on behalf of our members concerning the Proposed Directive on Groundwater Resource Management; Forest Service Manual 2560. ACI serves as New Mexico's statewide business advocate. In this capacity, ACI represents employers big and small across every industry sector at the state and federal level. Our mission is to enrich the lives and prosperity of New Mexicans through a vibrant business climate built by effective advocacy and education.

After review by ACI's Agriculture & Food Policy Committee and Water & Land Use Policy Committee, we stand in opposition to the Proposed Directive on Groundwater Resource Management.

Contrary to what is set forth in Forest Manual 2560, the Forest Service has no authority to "manage" groundwater, or to interfere with a water right owner's ability to access his right. The Forest Service contends that the Proposed Directive is designed to specifically monitor the use of groundwater. However, the proposed language in the Forest Service Manual outlines additional authority that would be granted to the Forest Service by providing the agency with management responsibilities over groundwater. This extension of authority over groundwater is in direct conflict with the Desert Land Act of 1877, United States Supreme Court precedent, and New Mexico constitutional and statutory law, which provide that management, jurisdiction, and sovereignty of water rights, including groundwater, belong uniquely to the State.

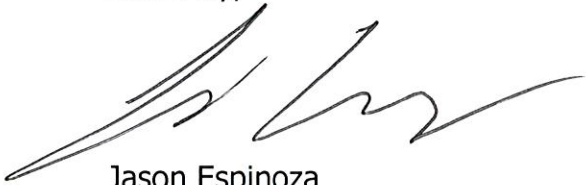
Additionally, the Forest Service has communicated that the Proposed Directive does not assert agency ownership of groundwater underlying national forests. However, the Proposed Directive explicitly refers to "NFS groundwater resources" in Forest Service Manual 2560. The use of such explicit language in the Proposed Directive leaves the door open for a federal official to broadly interpret such to mean the Forest Service has legal authority to assert jurisdiction over groundwater. While the Forest Service may,

like any other individual or entity, obtain a state ground water right through the proper state administrative agency, its Proposed Directive should not contain any language that could be interpreted to allow it authority to manage or regulate groundwater.

The New Mexico Office of the State Engineer governs the regulation of groundwater and has developed regulations to protect and manage groundwater diversion and use. Not only does the Proposed Directive create an illegal assertion of authority over state water resources, it will also likely result in unnecessary extra burdens on persons and entities conducting activities on Forest Service land that will create uncertainty, increase costs, and lengthen the permitting processes, without providing any additional benefit. The proposed Forest Service regulations are unjustified and unauthorized.

On behalf of our members, ACI strongly opposes the Proposed Directive and hereby requests that Forest Manual 2560 be rejected in its entirety.

Sincerely,



Jason Espinoza
Vice President for Government Affairs