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California Land Use & Development Law Report

Fracking in California? Not so fast, says federal court

Friends and foes of fracking in California have, for the most part, fought their battles in the policy and legislative arenas. But the federal district court in San Jose recently chimed in, striking down four oil and gas leases issued by the Bureau of Land Management for 2,700 acres of federal lands overlying the Monterey Shale Formation. The court found that the Bureau violated the National Environmental Policy Act by failing to take a hard look at the environmental impacts that fracking may cause in combination with technologies such as horizontal drilling. The problem, in the court's view, was that the Bureau's Environmental Assessment for the leases relied on outdated information that did not accurately predict the number of oil and gas wells that would be drilled in the area in the coming years or the new technologies that would be used. [Center for Biological Diversity v. Bureau of Land Management](#), No. C 11-06174 PSG (N.D. Cal. Mar. 31, 2013). Although it is still subject to an appeal to the Ninth Circuit, the case demonstrates how recent technological advances in the industry have significantly outpaced the federal planning and environmental review process for oil and gas development on public lands. The case also illustrates the thorny agency decision-making process that may lie ahead for parties seeking to drill in federal shale formations. See our recent [update](#) for more information about the decision.

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