
Los Angeles Times

AUGUST 6, 2009

Court restores 'roadless rule' in national forests

Environmentalists cheer the decision, which reverses moves by the Bush administration to re-open wilderness lands to development. More legal wrangling remains, however.

By Bettina Boxall

A federal appeals court on Wednesday reinstated national protections for some of the country's wildest forest lands, the latest twist in a nearly decadelong legal battle.

The 9th U.S. Circuit Court of Appeals found that the Bush administration had skirted environmental laws when it effectively repealed a 2001 rule that barred road building and timber cutting on nearly a third of America's national forest land.

The so-called roadless rule, issued during the last month of Bill Clinton's presidency, was one of that administration's most controversial conservation moves. It spawned a host of lawsuits, contradictory court rulings and administrative maneuvers.

Wednesday's decision does not necessarily settle the issue. A related case is working its way through another appeals court, and the Obama administration could take its own action.

But environmentalists called the ruling an important victory in their efforts to keep some of the most pristine national forest lands off limits to energy development and logging.

"This is a huge step," said Earthjustice attorney Kristen Boyles, who represented 20 environmental groups in the case. "We're talking about

beautiful Forest Service lands that are undeveloped."

Although the 9th Circuit has a liberal reputation, the roadless decision was issued by a conservative panel of three judges, all of whom were appointed by Republican presidents.

The panel concluded that when the Bush administration replaced the 2001 rule with a regulation giving states considerable say in the fate of federal roadless areas, it took "substantive environmental protections off the books."

To do so without first undertaking environmental reviews "was unreasonable," wrote Judge Robert R. Beezer.

The opinion affirmed a 2006 District Court ruling in California that reinstated the roadless regulations. But that decision was later narrowed to apply only to states in the 9th Circuit. Wednesday's court ruling applies nationally.

Attorney Paul Turcke, who represents the BlueRibbon Coalition, an off-road vehicle group that intervened in the case, predicted that the roadless "saga will continue."

"I think it is unlikely this will end the litigation," he said, noting that a Wyoming case challenging the Clinton regulations could yield another federal appeals ruling. Environmental groups are hoping the Obama administration will file an appeal in that case.

A spokesman for the U.S. Department of Agriculture, which oversees the Forest Service, did not tip the administration's hand, but said: "The Obama administration supports the conservation of roadless areas in our national forests, and this decision today reaffirms the protection of these resources."

The original Clinton rule applied to roughly 58.5 million acres. But the large Tongass National Forest in Alaska was later exempted from the road ban.

And using a long-standing federal petition process separate from the Bush rule, the state of Idaho last year adopted its own standards for the 9.3 million acres of roadless forest within its boundaries.

Environmental groups are challenging the Idaho rule, saying it potentially opens more than half the acreage to logging under the guise of thinning to reduce the risk of wildfire.

Colorado is also seeking to adopt its own roadless rule under the same petition process. Mike King, deputy director of the Colorado Department of Natural Resources, said Wednesday's ruling would not change that. "We believe our rule has significant improvements to the 2001 rule."