

Roadless Forest Protection

On January 12, 2001, after nearly three years of analysis and the greatest public outreach in the history of federal rulemaking, the U.S. Forest Service adopted the Roadless Area Conservation Rule to conserve 58.5 million pristine acres of National Forests and Grasslands from most logging and road construction. The Roadless Area Conservation Rule is one of the most significant public lands measures of the last century.

Overwhelming Public Support

Throughout the rulemaking process and beyond, Americans vociferously expressed their desire to see the last 30 percent of pristine land on National Forests protected. The U.S. Forest Service held more than 600 meetings and hearings in 37 states, the majority in communities near National Forests. More than 25,000 people participated. Of the more than 1.6 million comments submitted, an overwhelming 95 percent favored the strongest possible protection for roadless areas. As well, in 18 separate opinion polls, conducted by both Republicans and Democrats, Americans demonstrated robust support for roadless area protection. In July 2005, more than 140 members of the U.S. House of Representatives introduced a bill to codify the Roadless Rule into law.

Clearly, the American people understand the need for strong roadless forest protection. Representing less than two percent of our country's landscape, these pristine lands are sources of clean drinking water for millions of Americans and offer wonderful backcountry recreation, including hiking, hunting and fishing. They offer safe harbor for vanishing and imperiled wildlife and fish species. They also provide a wide range of economic values and improve the overall quality of life in communities adjacent to National Forests.



Pyramid Roadless Area in Willamette National Forest, Oregon

Bush Administration Attacks on the Roadless Rule

The Bush administration tried hard to eliminate or weaken protection for roadless forests (*See chronology on page 39*). After initially suspending the Roadless Rule, the administration failed to defend the rule against lawsuits. In 2005, they repealed the Roadless Rule and replaced it with a voluntary state petition process. Only two states—Idaho and Colorado—have continued to pursue petitions. Without a state petition, management of the roadless areas would revert back to existing forest plans. Nationwide, forest plans allow road building in 34 million acres of inventoried roadless areas (IRAs), or about 59% of the 58.5 million acres of IRAs.

Conflicting Court Decisions

The states of California, Oregon, Washington, and New Mexico sued the Bush administration in a California federal court for repealing the 2001 Roadless Rule. In September 2006, Judge Elizabeth Laporte decided that the Bush administration violated the National Environmental Policy Act (NEPA) and the Endangered Species Act when it repealed the 2001 Roadless Area Conservation Rule. The court reinstated the 2001 Roadless Rule and enjoined the Forest Service from undertaking any road building or logging inconsistent with the Roadless Rule, except in the Tongass National Forest in Alaska (see below).

However, the state of Wyoming also challenged the 2001 Roadless Rule in Wyoming federal court. In August 2008 Judge Clarence Brimmer ruled that the 2001 Rule violated NEPA and the Wilderness Act, and he issued a nationwide injunction prohibiting implementation of the Roadless Rule. In response to a request by the Bush administration, Judge Laporte agreed to temporarily limit the scope of her injunction to 10 western states. The California and Wyoming cases have been appealed to the Ninth and Tenth Circuit Courts of Appeals, respectively. In the meantime, roadless areas are in legal limbo.

Tongass National Forest Exempted

The Bush administration temporarily exempted the Tongass National Forest in Alaska from the Roadless Rule in 2003 through settlement of the State of Alaska's lawsuit challenging the Roadless Rule.

Important Facts about Roadless Forests

- The National Forest System comprises more than 192 million acres in 42 states. Roadless areas make up 58.5 million acres of National Forest lands in 38 states and the Commonwealth of Puerto Rico.
- The Roadless Rule has garnered widespread support since 2001, receiving more public comments than any federal rule in history.
- America's National Forests are currently covered with 386,000 miles of roads—enough to encircle the earth 15 times—and a \$8.2 billion maintenance backlog exists on National Forest roads according to the Forest Service's own estimates (USDA Forest Service Audit Report, # 08401-8-FM).
- Roadless forests safeguard clean water from watersheds nationwide, the source of drinking water for millions of Americans. More than half of roadless areas intersect watersheds that provide drinking water to local communities.
- Roadless forests preserve critical habitat for fish and wildlife, including more than 1,600 threatened, endangered or sensitive plant and animal species.
- More than 100 scientists wrote a letter to the Forest Service in 2004 extolling the high quality of watersheds, fisheries, and wildlife habitat provided by roadless forests. Also in 2004, more than 100 economists told the Forest Service that designating roadless areas is an economically sound policy that saves taxpayers millions of dollars.
- Exceptions were made to the Roadless Area Conservation Rule to allow road building to fight fire, protect property and provide access to state and private lands (Sec. 294.12 (b) of the 2001 Rule).



Rock Gorge Roadless Area in Sumter National Forest, Georgia

For more information contact: Mike Francis at (202)429-2662 or michael_francis@tws.org or Cecilia Clavet at (202)429-2663 or cecilia_clavet@tws.org

2001-2008 ROADLESS AREA CONSERVATION POLICY CHRONOLOGY (as of December 10, 2008)

2001

- January 12 Roadless Area Conservation Rule is published in Federal Register.
- February 5 USDA Secretary Veneman suspends implementation of Roadless Rule until May 12.
- May 10 Idaho federal district court issues preliminary injunction blocking implementation of Roadless Rule. Environmental intervenors appealed to Ninth Circuit Court of Appeals.
- June 7 Forest Service issues interim directive requiring approval by chief of all road building and logging projects in roadless areas until forest plans are amended.
- July 10 Bush administration requests public comment on 10 questions regarding protection of roadless areas. More than 800,000 comments were submitted by the end of the public comment period.

2002

- June 5 Legislation is introduced in the House of Representatives to enact the Roadless Rule, with more than 170 original cosponsors. A companion bill was introduced in the Senate on July 25.
- December 12 Ninth Circuit Court of Appeals reverses the Idaho district court decision and strongly upholds the legality of the Roadless Rule.

2003

- June 12 Bush administration announces that it will propose changes to the Roadless Rule to exempt Alaska's National Forests and grant waivers upon request of individual state governors.
- July 14 Wyoming federal district court decides that the Roadless Rule violated NEPA and the Wilderness Act and issues injunction. Environmental intervenors appealed to the tenth Circuit Court of Appeals.
- December 23 Forest Service exempts Tongass National Forest in Alaska from Roadless Rule.

2004

July 12 USDA Secretary Veneman announces the administration will propose replacing the Roadless Rule with a voluntary Governor petition process. By the end of the comment period, more than 1.7 million comments opposed the administration's proposal and supported retaining the Roadless Rule.

2005

May 13 Bush administration issues final regulation repealing the Roadless Rule and replacing it with a state petition process.

July 11 Tenth Circuit Court of Appeals dismisses appeal of the Wyoming district court decision and vacates that court decision, on grounds that the case has been made moot by the May 13 repeal of the Roadless Rule.

August 5 Ninth Circuit Court of Appeals invalidates the Tongass National Forest management plan and remands the case to the district court to determine appropriate relief. The court decision postpones roadless area logging in the Tongass until the plan is revised.

August 28 States of California, Oregon, and New Mexico (later joined by Washington State) file a lawsuit challenging the Bush administration's repeal of the Roadless Rule. The states' case, along with a similar lawsuit filed by 20 environmental groups, was assigned to Magistrate Judge Elizabeth Laporte in Northern California federal district court.

December 22 Virginia submits the first state roadless petition, requesting protection for all of the state's 380,000 acres of roadless areas. Four other states (North Carolina, South Carolina, New Mexico, and California) also petitioned for full protection of their states' roadless areas.

2006

September 20 Judge Laporte rules that the administration illegally repealed the Roadless Rule, sets aside the State Petitions Rule, and reinstates the Roadless Rule nationwide except in the Tongass National Forest.

September 20 Idaho submits petition allowing road building and logging in most of the state's 9.3 million acres of roadless areas.

September 22 State of Wyoming asks Judge Brimmer for immediate reinstatement of his 2003 decision enjoining the Roadless Rule.

October 4 Bush administration revises regulations to allow continued review of state roadless area petitions by a Roadless Area Conservation National Advisory Committee (RACNAC).

2007

- February 6 Judge Laporte issues final injunction, barring road construction in connection with more than 300 oil and gas leases sold since January 2001.
- April 9 Bush administration and timber industry appeal Judge Laporte's decision to the Ninth Circuit.
- April 10 Bush administration initiates 30-day comment period on Idaho petition for state-specific rulemaking.
- April 11 Colorado submits roadless petition including exemptions for ski areas, grazing, and coal mining.
- May 24 Bills to enact the Roadless Rule are introduced in the House and Senate.

2008

- January 25 Tongass final forest plan released.
- February 28 State of California sues the Forest Service for failing to protect roadless areas in four southern California forest plans.
- July 25 Draft rule for Colorado roadless areas released for 90 days of public comment.
- August 12 Wyoming federal district court issues a second decision (very similar to its 7/14/03 decision) invalidating and enjoining the Roadless Rule nationwide.
- August 20 Bush administration asks Judge Brimmer and Judge Laporte to suspend their respective injunctions.
- October 16 Final Idaho roadless rule adopted.
- November 4 Barack Obama, a supporter of the Roadless Rule, is elected next President of the United States.
- December 2 Judge Laporte partially stays her injunction, limiting geographic scope to the Ninth Circuit and New Mexico and removing protection for other 29 states and Puerto Rico.
- December 5 Colorado and administration officials agree to postpone finalizing the Colorado roadless rule until spring 2009.