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Federal judge overturns ban on road-building in national forests

Wyoming jurist issues an injunction that may not apply to California.

August 13, 2008

A federal judge in Wyoming has overturned a Clinton-era ban on road construction in nearly 60 million acres of national forest, extending a long-running dispute over U.S. Forest Service rules for large sections of undeveloped land.

U.S. District Judge Clarence Brimmer's ruling on Tuesday is the latest turn in a legal battle over the Clinton administration rule that limited logging and other development in roadless areas that make up nearly a third of national forest land.

Brimmer issued a permanent injunction against the so-called "roadless rule," saying that the ban was enacted in violation of the National Environmental Policy Act and the Wilderness Act.

"The Forest Service, in an attempt to bolster an outgoing president's environmental legacy, rammed through an environmental agenda that itself violates the country's well-established environmental laws," Brimmer wrote.

The ruling reflects a similar decision that Brimmer issued in 2003 in response to a lawsuit filed by Wyoming challenging the roadless rule. Brimmer's 2003 ruling was rendered moot when the Bush administration decided not to appeal and instead issued its own rules for roadless areas.

Conservation groups and attorneys general from Oregon, Washington, California and New Mexico later challenged the Bush policy, which required governors to petition the federal government to protect roadless areas in their states.

In 2006, U.S. District Judge Elizabeth Laporte in San Francisco reinstated the 2001 rule created by the Clinton administration. That prompted Wyoming to renew its complaint in federal district.

On Tuesday, environmentalists vowed to appeal Brimmer's ruling to the U.S. 10th Circuit Court of Appeals in Denver, while also downplaying the scope of the decision.

Mike Anderson, an attorney with the Wilderness Society, said it was his opinion that the California decision was still in effect.

"It is not in any way overturned or compromised by Judge Brimmer's decision in Wyoming today," Anderson said.

“What it does do is create two conflicting court decisions in different federal courts, different states, both issuing decisions with nationwide impact.”

Wyoming Atty. Gen. Bruce Salzburg praised Brimmer’s ruling, saying the injunction was appropriate “in light of the potential harm the roadless rule poses to our national forests due to beetle infestation and forest fires.”

“We anticipate an appeal by either the United States or one or more of the interveners,” Salzburg said. “As such, we consider the matter still in litigation.”

Attempts to reach the Forest Service for comment Tuesday evening were unsuccessful.

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