

# State backs roadless rule

By EVE BYRON - IR Staff Writer - 02/25/06

**Montana joined the legal battle Friday over the Bush administration's repeal of the 2001 Roadless Rule by filing an "amicus brief" supporting reinstatement of the rule.**

Last year, the states of California, Oregon, and New Mexico filed a lawsuit alleging the Bush administration violated federal law by not studying the environmental impacts of repealing the Clinton Roadless Rule. Washington State joined the lawsuit earlier this year.

In Friday's brief, Montana Attorney General Mike McGrath and Maine's Attorney General G. Steven Rowe write that they support a motion by the four other states for summary judgment, meaning that they want a court to rule now that the repeal of the Roadless Rule should be set aside.

"Protected roadless areas serve as a primary source of clean water for fish and for wildlife, as well as for sources for the water supplies for our states' cities and towns," the attorneys general wrote in the legal filing. "Protection of roadless areas provides habitat for threatened and endangered species as well as for big game species."

In Montana, the five-week big game hunting season depends extensively upon the habitat security provided by roadless areas, McGrath said, adding that the characteristics of roadless areas are "critical" for the quality of the Montana's open spaces.

Clinton issued the "Roadless Rule" just before leaving office in January 2001. It banned development and road building on almost one-third of the nation's 192 million acres of national forest land. While praised by environmentalists, many of those in the timber industry criticized the rule.

President Bush repealed the rule last May and issued a new policy that requires states to devise management plans for individual forests. In Montana, Gov. Brian Schweitzer has asked counties to put together ideas on areas they would like to remain roadless, or where roads might be needed.

Montana has the third largest total area that had been protected by the Roadless Rule, with those lands including about 6.4 million acres. McGrath notes that while Montana currently is working under the process outlined by the Bush administration, "Montana is nonetheless concerned that the repeal of the Roadless Rule leaves a vacuum in forest management and protection in Montana until its petition is acted upon. Montana is also concerned with potentially inconsistent treatment among adjoining western states with inventoried roadless areas."

More generally, the brief states that Montana and Maine believe that the Roadless repeal lacks the level of environmental analysis required under the National Environmental Protection Act (NEPA), as well as the amount of public participation necessary "for an action having such significant and national consequences."

The lawsuit points out that prior to President Clinton instituting the Roadless Rule, the Forest Service held 400 public meetings nationwide, including 34 in Montana alone. Of the 17,500 citizens who participated in the process in Montana, 11,600 favored even stronger roadless protections than what had been initially proposed. In contrast, there was little if any public input into the rescission of the rule in 2005, the lawsuit notes.

“The final Roadless Rule thus responded to a clear majority of public comments ... by further strengthening roadless area protections. In comparison, the Roadless Repeal is unsupported by any record reflecting substantive agency analysis of the effect of the repeal ...,” the legal brief states. “The record relative to the repeal consists of nothing more than talking points, public notices and press releases.”

Representatives of environmental and hunting/fishing conservation groups in Montana applauded McGrath’s entry into the legal fray over roadless areas. “There’s just too much at risk to not defend this and to leave it open to a process that we don’t know how it’s going to work,” said John Gatchell, conservation director for the Montana Wilderness Association. “We appreciate the attorney general weighing in on behalf of Montana and our families.”

Both Chris Marchion, president of the Montana Wildlife Federation and Bob Ekey with The Wilderness Society noted, however, that it’s disappointing the Bush administration is putting the public in a position where the fate of roadless areas has to be litigated. “We spent a lot of time commenting on this already and getting it resolved,” Marchion said.

And even the Forest Service noted that it had little intention of creating new roads in these areas anyway, Ekey added. “When the Roadless Rule came out ... there wasn’t really any point of contention,” Ekey said. “It really wasn’t an issue.” Reporter Eve Byron can be reached at 447-4076 or by e-mail at [eve.byron@helenair.com](mailto:eve.byron@helenair.com)