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TWS responds to Bush's latest court moves against "roadless rule"

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The Wilderness Society today issued the following statement in response to the Bush Administration's Aug. 20 legal move to ask a pair of federal judges to lift their own injunctions concerning the [Roadless Area Conservation Rule](#). TWS opposes the administration's latest effort to remove protection for America's 58.5 million acres of roadless forests.

Statement by Mike Anderson:

Summary of Bush Administration's August 20 Court Motions in Roadless Litigation

The Bush Administration's attorneys yesterday filed motions with both Judge Brimmer in Wyoming and Judge Laporte in California, requesting that they at least temporarily lift their conflicting injunctions regarding Forest Service compliance with the Roadless Area Conservation Rule.

The Administration argues that the two courts' injunctions have put the Forest Service in an "untenable position" of having to (a) continue to follow Judge Laporte's 2006 injunction requiring the agency to comply with the roadless rule and (b) follow Judge Brimmer's recent injunction setting aside the rule. The Administration pleads for one or both courts to "eliminate the specter of contempt that now haunts the agency."

The Administration asks Judge Brimmer to amend his ruling to remove the nationwide injunction entirely or to limit it geographically to the State of Wyoming. It also asks Brimmer to immediately stay his injunction pending resolution of the government's requests to both him and Judge Laporte.

The Administration asks Judge Laporte to eliminate her injunction, arguing that the Forest Service should not be required to comply with the roadless rule now that it has been declared invalid by Judge Brimmer.* As with its request to Brimmer, the government also asks for a stay of the injunction – either nationwide, nationwide except in the four plaintiff states (California, Oregon, Washington, and New Mexico), or in the State of Wyoming. A hearing on the request to Judge Laporte is scheduled for Sept. 30.

While The Wilderness Society will soon also be requesting Judge Brimmer to stay his injunction, we will strongly oppose any effort to lift Judge Laporte's injunction requiring the Forest Service to comply with the Roadless Rule. Judge Brimmer's decision directly conflicts with prior decisions by the Ninth Circuit Court of Appeals upholding the legality of the roadless rule and therefore does not warrant lifting Laporte's injunction.

* Footnote: The Administration's request to Judge Laporte is more complicated procedurally. Since Laporte's 2006 decision is currently under appeal to the Ninth Circuit, Laporte does not have independent authority to modify her decision. Therefore, the Administration first must ask her to give an "indication" as to whether she would "entertain" such a request. If she agrees, then the government would have to ask the Ninth Circuit to give Laporte permission to consider its request to modify her 2006 decision. If the Court of Appeals grants the request, then the Administration would have to go back to Laporte again with its request to modify her decision.