



## 5. FORESTS: Colo. determined to push ahead with state roadless rule (08/13/2009)

Eryn Gable, special to E&E

Last week's federal appeals court decision reinstating the 2001 Roadless Area Conservation Rule will not keep Colorado from moving forward with its own roadless measure, state officials said this week, though some believe the state's effort has been undermined by the latest court ruling.

Theo Stein, a spokesman for the Colorado Department of Natural Resources, said the state is still evaluating whether the 9th U.S. Circuit Court of Appeals decision usurps a 2008 ruling from District Court Judge Clarence Brimmer in Wyoming that invalidated the Clinton-era rule.

"There's still a great deal of uncertainty about what the 9th Circuit Court of Appeals ruling means," Stein said. "In any case, I don't think it will change our approach to finalizing a state rule."

The 9th Circuit [ruling](#) affirmed a decision by California Magistrate Judge Elizabeth Laporte to reinstate the 2001 roadless rule and permanently throw out the Bush administration's policy allowing states to petition for their own roadless protections.

The latest ruling does not affect forests in Idaho, the only state to have finalized its own roadless plan under the Bush policy, or the Tongass National Forest in Alaska, which had been exempted from the 2001 roadless rule ([E&ENews PM](#), Aug. 5).

But questions remain as to how the appellate court's ruling affects Colorado, which has been working toward adopting a state rule since 2005 and only last week rolled out the latest version of its plan, which must be signed by Gov. Bill Ritter (D) and approved by Agriculture Secretary Tom Vilsack to become finalized.

Environmentalists, who have criticized the state's draft rule for not being protective enough, were quick to argue that the Colorado process has been undone by the ruling. "It's our opinion that the 2001 roadless rule is in effect here in Colorado currently," said Bryan Martin, director of conservation for the Colorado Mountain Club.

Ryan Demmy Bidwell, executive director of Colorado Wild, said he hoped Ritter would "think twice about finalizing the rule, particularly without addressing many of the weaknesses of the current Colorado rule compared to the 2001 rule. But thus far, the state seems determined to continue working on the Colorado rule."

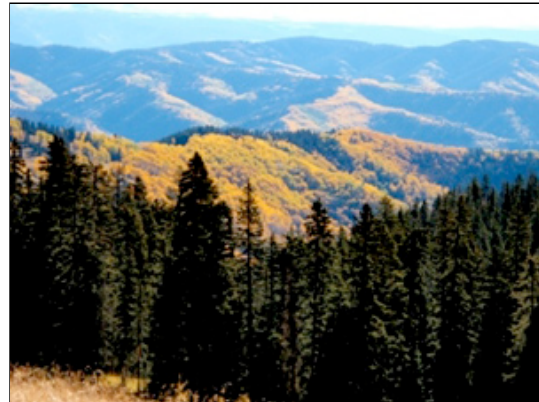
The latest revisions to Colorado's roadless rule would add 160,000 acres of protected areas to the roughly 4 million acres protected in the first draft, eliminate a loophole allowing pipelines to bisect roadless areas and eliminate new roads for grazing. The state is accepting public comments on the revisions, which would apply to 11 national forests in the state, through Oct. 3.

Environmental groups remain unhappy with the latest revisions, however, citing language that would expand exceptions for power-line corridors and water projects sited in prime big-game habitat and native trout fisheries, the allowance of a new coal mine in a roadless area on the Western Slope, and broad exceptions for timber cutting.

### Administrative moves

The future of Colorado's rule will also depend on the actions of the Obama administration.

In May, the administration announced that it would implement a one-year delay on making any major decisions on roadless areas until outstanding legal issues were resolved. Meanwhile, Vilsack will have sole authority to make decisions on road building and timber harvesting on nearly all areas covered by the 2001 rule.



Colorado officials say they will forge ahead with a state rule governing roughly 4.1 million acres of roadless areas in 11 national forests. Photo courtesy of the Colorado Department of Natural Resources.

During a stop in Colorado this week, Vilsack reaffirmed the administration's support for a national plan for managing roadless forests. "We think there needs to be a national approach to this," he told the *Denver Post*.

David Peterson, Colorado field director for Trout Unlimited, noted that Vilsack also has not ruled out declining to sign Colorado's rule if he does not think it is strong enough. "At this point, the governor doesn't have any guarantee that the feds will accept the thing," he said.

Given that uncertainty, Peterson said Ritter should back away from the state rule. "All the reasons the governor had for wanting to do it have fallen away," he said.

But DNR spokesman Stein indicated the state would only consider scrapping its rule if a national policy addresses what the state sees as three flaws in the 2001 rule. To do that, the rule would have to be updated to include a more accurate inventory of roadless areas, restrict the construction of pipeline corridors in roadless areas and allow communities to perform wildfire mitigation work along their borders with roadless areas.

"The governor supports a national rule, but it must incorporate the perspective of Colorado," Stein said.

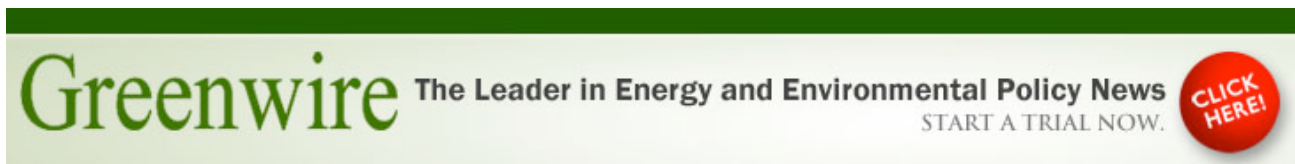
But even groups that support Colorado's roadless rule are worried that the 9th Circuit decision will undermine the state's effort.


"We reached an agreement about what to do with roadless issues in Colorado, only to have that overturned by a district court judge in San Francisco who doesn't know anything about public lands in Colorado," said Steve Schrock of the Colorado Timber Industry Association. "We think that is wrong. It's wrong-headed, it's the wrong policy and it will not serve the interests of having sustainable public lands ecologically and economically into the future."

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