

State of Wyoming v. United States Department of Agriculture

FACTS/BACKGROUND

Roadless Rule History

The Wilderness Act (1964) required the Forest Service to review “primitive areas of the NFS to determine their “suitability or nonsuitability for preservation as wilderness.” In the 1972, and from 1977 to 1979, the Forest service completed two Roadless Area Review and Evaluation Projects (RARE I and RARE II), which inventoried roadless areas suitable for “wilderness” designation. Until the late 90’s, road construction and other development occurred on 2.8 million acres mapped as Inventoried Roadless Area’s (IRAs). In 1998, the Forest Service issued an eighteen-month moratorium on road construction in most IRA’s known as the “Interim Roadless Rule.” After issuing a notice of intent, in accordance with the National Environmental Protection Act (NEPA, 1969), the Forest Service issued an environmental impact statement (EIS) draft and four primary alternatives for implementing the Roadless Rule. In January 2011, the Forest Service issued the final Roadless Rule that prohibited “road construction and reconstruction on IRAs, and the cutting, sale, or removal of timber from IRAs, subject to limited exceptions.” The new rule applied to 58.5 million acres of IRAs, “amounting to one-third of all NFS lands and approximately 2% of the land base of the continental United States.” The rule affected 35% of the NFS land in Wyoming. The defined purpose of the Roadless Rule was to “protect the values prevalent in roadless areas” by “immediately stop[ping] activities that have the greatest likelihood of degrading desirable characteristics of [IRAs].”

Procedural History

On May 18, 2001, Wyoming filed a complaint challenging the legality of the Roadless Rule in a Federal District Court. Wyoming contended that the rule violated the NEPA, the Wilderness Act, the Wyoming Wilderness Act of 1984, NFMA, and MUSYA. On July 14, 2003, the Wyoming District court ruled that “the Roadless Rule was promulgated in violation of NEPA and the Wilderness Act.” Environmental groups appealed as defendant-intervenors. During the appeal process, the Forest Service adopted the State Petitions Rule, which superseded the Roadless Rule. As a result, the appeals court dismissed, vacated and remanded the district court’s decision.

On October 26, 2006, a district court judge in Northern California ruled that the State Petitions Rule violated the NEPA and the Endangered Species Act of 1973, and reinstated the Roadless Rule. Wyoming brought a renewed challenge against the rule built on violations of the Wilderness Act, NEPA, MUSYA and NFMA. The Wyoming district court ruled that “the Roadless Rule was promulgated in violation of the Wilderness Act and NEPA, and issued a permanent, nationwide injunction.” Environmental groups quickly appealed.

ISSUES: Does the Roadless Rule constitute a de facto designation of “wilderness” in contravention of the process established by Congress in the Wilderness Act of 1964?”

Did the creation and implementation of the Roadless Rule violate procedural guidelines in National Environmental Policy Act?

HOLDING: No. The 10th Circuit Court of Appeals ruled that the Roadless Rule did not establish de facto wilderness areas, and added that the Forest Service “promulgated the rule pursuant to broad authority” granted under the Organic Act (1897) and the Multiple-Use Sustained-Yield Act (MUSYA, 1960).

No. In response to five of seven arguments posed by Wyoming, and upheld in district court, the 10th Circuit Court of Appeals ruled that the Roadless Rule did not violate NEPA.

RATIONALE: IRA’s (Inventoried Roadless Areas) governed by the Roadless Rule are distinct from “wilderness areas” under the Wilderness Act. The Roadless Rule is less restrictive than the Wilderness Act, limiting only road construction and commercial timber harvesting, while permitting more mineral development, grazing, and recreation. Moreover, the Roadless Rule provides broader exceptions for road construction and reconstruction.

The Appeals court overturned the five arguments from Wyoming upheld in district court because (1) the scoping period was adequate, (2) the NFS decision withhold cooperating agency status from Wyoming was not judicially reviewable under the APA, (3) the Forest Service provided a full range of reasonable alternatives to protect IRA’s, (4) the Forest Service considered a reasonable range of alternatives in detail in the EIS, and reasonable rejected those alternatives that did not further the defined purpose of the Roadless Rule, (5) the Forest Service’s cumulative-impacts analysis was adequate under NEPA,

OPINION FROM DISTRICT COURT:

Wyoming based its claims under the Wilderness Act, NEPA, MUSYA, and NFMA, but the district court declined to rule on the last two because it “had already found that the Roadless Rule was promulgated in violation of NEPA and the Wilderness Act.”

IRA’s governed under the Roadless Rule are de facto wilderness areas. The Forest Service stepped beyond its statutory jurisdiction and authority by implementing the rule. “Wilderness areas,” governed by the Wilderness Act, and IRA’s, governed by the Roadless Rule, “are essentially the same,” and “uses in [IRAs] are even more restricted than those permitted in congressionally designated wilderness areas.”

Wyoming argued that the Roadless Rule violated the NEPA in seven ways related to: (1) inadequacy of the scoping period, (2) failing to grant cooperating-agency status to Wyoming upon request, (3) failure to consider a reasonable range of alternatives in the EIS (Environmental Impact Statement), (4) failing to consider the cumulative impacts of the proposed action in the EIS, (5) preparation of a supplemental impact statement, (6)

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inclusion of site-specific analysis in the EIS, and (7) an objective “hard look” at the environmental consequences of agency action, by instead predetermining the outcome of the NEPA process.