

MARIA CANTWELL
WASHINGTON



United States Senate

WASHINGTON, DC 20510-4705

November 10, 2003

The Honorable John Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, Room 4400
Washington D.C. 20530

Dear Attorney General Ashcroft:

On September 5, 2003, I wrote to you regarding ongoing litigation involving the State of Wyoming and the U.S. Forest Service (USFS) over the Roadless Area Conservation Rule. In my letter, I noted your personal commitment to me and other members of the Senate Judiciary Committee that, if confirmed, you would defend and enforce regulations currently in effect.

Accordingly, I was deeply disappointed by the decision of the U.S. Department of Justice (DOJ) not to appeal U.S. District Judge Clarence Brimmer's decision to enjoin implementation of the existing roadless rule in *State of Wyoming v. USDA*. As of today, I have not received any explanation from you regarding the failure of the DOJ to defend the USFS rulemaking process, and I am deeply troubled that this failure may contravene commitments you made during the confirmation process.

Despite DOJ's refusal to appeal Judge Brimmer's decision, the Tenth Circuit Court of Appeals is currently considering an appeal of the lower court's decision. In this litigation, the State of Wyoming has filed a motion seeking to dismiss the case on the grounds that the Wyoming Outdoor Council and other defendant-intervenors lack standing to appeal. I understand that the DOJ will file an amicus brief on Wednesday, November 12, 2003, on the question of standing.

Given that DOJ decided not to defend a federal agency's rulemaking in court, I urge you to file a brief in support of the Wyoming Outdoor Council's standing to appeal in order to defend this important rule. Just as citizens have the right to enforce the rule, they should have the ability to defend it in court to protect sensitive National Forest lands.

Your prompt attention to this important matter would be greatly appreciated. I look forward to your timely response.

Sincerely,

Maria Cantwell
United States Senator

cc: Thomas L. Sansonetti, Assistant Attorney General, Environment and Natural Resources Division