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## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-8275

March 15, 2001

Attorney General John Ashcroft  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Ashcroft:

On January 12, 2001, the final rule on National Forest Roadless Area Conservation – a rule to permanently protect the roadless status of 58.5 million acres of national forest land – was published in the Federal Register, thereby acquiring the force and effect of law. Ordinarily, the Roadless Area Conservation Rule would have taken effect on March 13, 2001. However, because of actions taken by White House Chief of Staff Andrew Card on January 20, and a subsequent decision by the U.S. Department of Agriculture Secretary Veneman on February 5, the Administration has already delayed the implementation of this law until May 12, 2001.

We are writing because we expect the Department of Justice to take all necessary and appropriate steps to fully support, defend, and enforce this law as you assured Congress you would during your confirmation hearing. Action, or even inaction, by the Department of Justice that serves to delay implementation of the Roadless Area Conservation Rule directly contravenes the requirements of the Administrative Procedures Act (APA). Past APA legal decisions are clear: once a rule is adopted by an agency and published in the Federal Register, it is a final rule, subject to amendment or repeal only by way of APA rulemaking.

As you know, four lawsuits challenging the Roadless Area Conservation Rule are currently pending in federal district courts. During your confirmation hearing, you were asked specifically by Senator Cantwell whether you would enforce and uphold the Roadless Area Conservation Rule and defend lawsuits opposing the rule. You stated:

"I will, regardless of whether or not I supported something as a Senator, defend the rule. And if it is a rule with the force and effect of law, I will defend those cases... And I will support and enforce the law. I think that's a responsibility and I think that's what I've promised to do. I can't be result oriented, I have to be law oriented, and I think I would disserve the President and the country were I to do otherwise."


We seek your reassurance that the Department of Justice will vigorously defend all lawsuits challenging the Roadless Area Conservation Rule and uphold the integrity of

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the Administrative Procedures Act. Given the importance of the rule, we look forward to your personal involvement in the rule's defense and would appreciate being periodically updated on the Administrations' efforts to defend the rule, and the APA process, in coming months.

The Department of Justice's response to the Idaho plaintiff's motion for a preliminary injunction, which is due at the end of the week, will be an important opportunity to fulfill the commitment you made at your confirmation hearing.

Sincerely,



PATRICK LEAHY  
United States Senator



MARIA CANTWELL  
United States Senator