

Can the Courts Save Wilderness

Environmentalists have had so little to cheer about in the last two years that any victory is worth noting. In recent weeks they have prevailed in two important court cases that represent potentially major setbacks to the Bush administration's aggressive efforts to open up big chunks of the West to development by the oil, gas, mining and timber industries. Nobody is under the illusion that two adverse rulings are going to change the administration's fundamental bias toward commercial exploitation. But it's reassuring to know that there are still a few judges left who care about the niceties of environmental law and the needs of nature.

In the first decision, a federal appeals court in San Francisco upheld a Clinton-era rule banning new road construction in 60 million acres of national forest. The rule is intended to prevent logging, mining and oil and gas drilling on nearly one-third of all national forest land, including parts of Alaska's Tongass National Forest coveted by loggers for their old-growth trees. Though the Bush administration never publicly opposed the rule, it did nothing to defend it against legal actions brought by timber companies and several Western states.

In the second decision, a federal district judge blocked the Interior Department's plans to explore for oil near Utah's Arches National Park, rebuking the government for failing to consider the project's impact on the environment. The protected area is relatively small, only 23,000 acres. Nevertheless, environmentalists hope the ruling will embolden opponents of Mr. Bush's drilling policies elsewhere.

The importance of these two decisions arises from this basic reality: The courts may be the last best hope for stopping the administration's assault on the environment. Mr. Bush's pro-development policies have virtually no dissenters within the administration, and the environmentalists in Congress, including many moderate Republicans, appear to be outnumbered. It is entirely possible, however, that the administration in its zeal will commit enough legal mistakes to make a counterattack in the courts not only a plausible strategy but a successful one. Several environmental groups have already sued to block a much bigger exploration project in Utah, covering two million acres, partly on grounds that Interior has not conducted proper environmental reviews. And they are likely to challenge, on similar grounds, the administration's plan to develop as many as 77,000 coal-bed methane wells in Wyoming and Montana.

The administration's new forest policies also seem ripe for legal challenge. The Forest Service recently unveiled revised rules for managing the national forests, as well as a new strategy for fighting forest fires. Both plans would encourage new logging by the timber

companies; both would also short-circuit reviews currently mandated by the National Environmental Policy Act.

Mr. Bush's policies have provoked as much sadness as anger. Joseph Lieberman, the Connecticut Democrat and a party leader on these issues, spoke despairingly the other day of the "seemingly unending campaign to roll back our most basic environmental protections." His best hope, it now appears, is that the administration will overplay its hand, testing the patience of the courts by trifling with the law.