

NEWS RELEASE

Luther Strange

Alabama Attorney General



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For More Information, contact:

Joy Patterson (334) 242-7491

Suzanne Webb (334) 242-7351

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ALABAMA AG JOINS AMICUS BRIEF IN SUPPORT OF FORESTRY

(MONTGOMERY) – Attorney General Luther Strange has joined with 25 other states in an amicus brief to the U.S. Supreme Court about a federal court ruling that could undercut decades of effective water pollution control procedures that have been practiced in forestry. The brief joined by Attorney General Strange and the others was filed on Friday to support the Oregon State Forester in an appeal to the U.S. Supreme Court of a ruling by the U.S. Court of Appeals for the Ninth Circuit, in the case of Decker v. Northwest Environmental Defense Center.

“This is an important issue to Alabama’s economy and to our environment,” said Attorney General Strange. “It would be devastating to suddenly have to discard a system of best practices that has been carefully developed for the preservation and protection of Alabama’s forests, and instead to be forced to comply with complicated nationwide cookie-cutter regulations.”

At issue is whether storm water run-off from forestry roads is to be considered industrial discharge that is regulated as a “point source” that must be handled through the permitting procedures for a National Pollutant Discharge Elimination System (NPDES). Instead, the Attorneys General assert, Congress and the EPA have for more than 30 years adhered to what is known as “The Silvicultural Rule” which involves the development of intricate and individualized practices best-suited to handle such run-off. Silviculture is the growing and harvesting of trees, and is an agricultural practice. In fact, the federal Clean Water act specifically excludes agricultural stormwater discharges from being classified as point sources that would be permitted through NPDES.

In their brief, the Attorneys General assert that the traditional approach intended by Congress and implemented by the EPA is far more appropriate to effectively handle the very diverse environmental issues that may arise in forestry: “Forestry activities generally involve numerous small operations occurring sporadically over large amounts of space and long periods of time. Complicating the situation is the fact that different forests, even those in close proximity with one another, may have very different characteristics in terms of topography, tree species, soil types, wildlife habitat, geology and hydrology. In order to be effective, the approach to protecting the environment from forestry activities must be adapted to local conditions and circumstances.”

It is necessary and important for best practices to be developed according to individual state needs, the Attorneys General emphasize: A plan for best management practices (BMP) “that is appropriate for a coastal pine forest in Georgia may be wholly inadequate for a temperate rainforest in Oregon, or an Ozark mountain forest in Arkansas. But while individual BMPs may vary, the single goal of protecting the waters of the nation is served in consistent fashion. Indeed, in order to advance the laudatory goals of the CWA, the BMPs must, of necessity, be designed in response to local conditions.”

According to the Alabama Forestry Association, there are more than 1,100 loggers in family-owned businesses in Alabama, and logging contractors’ capital investment of \$1.6 billion helps generate annual income of \$2.8 billion.

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