

NEWS RELEASE

# Luther Strange

Alabama Attorney General



FOR IMMEDIATE RELEASE

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## **ALABAMA JOINS LAWSUIT TO STOP EPA'S EXCESSIVE 'WATERS OF THE UNITED STATES' RULE**

(MONTGOMERY) — Attorney General Luther Strange announced that Alabama has joined eight other states in filing a lawsuit asking a federal court to strike down a controversial new rule from the Environmental Protection Agency that unlawfully expands the federal government's regulatory reach over ditches, local streams and farms.

The new "Waters of the United States" rule seeks to extend the EPA and Corps of Engineers' regulatory reach to an indefinite number of small bodies of water, including roadside ditches, temporary streams or any other area where the agencies believe water may flow once every 100 years.

"The new EPA water rule is one of the most extreme to be proposed under an administration which has gone out of its way to ignore the powers of Congress and, accordingly, the Constitutional limits upon its own authority," said Attorney General Strange. "This new rule would expand the reach of the federal government onto the property of homeowners, farmers and other businesses, potentially requiring them to obtain permits for the simplest of changes to their land, including fence building, digging ditches or spraying fertilizers. If a property owner fails to comply with the EPA's new water rule they would be hit with a fine of up to \$37,000 a day. The phrase 'government run amok' may be overused but it certainly fits in this case."

Alabama and the other eight states argue in the lawsuit filed today in the Southern District of Georgia that the final rule put forward by the EPA and Corps of Engineers violates the Clean Water Act, the Administrative Procedure Act and the U.S. Constitution, and usurps the States' primary responsibility for the management, protection and care of intrastate waters and lands.

While the Clean Water Act gave the EPA and Corps authority to regulate "navigable waters" defined as "waters of the United States," Congress made sure that states would retain their constitutional, sovereign responsibility over non-navigable, intrastate lands and waters. The U.S. Supreme Court has twice rejected the agencies' attempts to expand their authority (in *Solid Waste Agency of Northern Cook County v. Army Corps of Engineers* and *Rapanos v. United States*). However, this latest rule written by the two administrative agencies gives them virtually limitless power over these waters.



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Alabama joined West Virginia, Florida, Georgia, Kansas, Kentucky, South Carolina, Utah and Wisconsin in filing the federal lawsuit Tuesday.

Attorney General Strange noted the states have the best chance of overturning unlawful EPA regulations through the court system. “Yesterday, the EPA was handed a major defeat in a multi-state lawsuit, including Alabama, for failing to consider the cost of its regulations on energy plants and consumers. The Supreme Court ruling should put the EPA on notice that it cannot run roughshod over the law in pursuit of its political agenda.”

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