

NEWS ADVISORY
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**ATTORNEY GENERAL STRANGE FILES COMPLAINT CHALLENGING BROAD
EXPANSION OF DEFINITION OF CRITICAL HABITAT FOR ENDANGERED SPECIES**

(MONTGOMERY) – Attorney General Luther Strange led a coalition of 18 states in filing a complaint in a lawsuit challenging overreaching new federal rules that broadly expand the definition for “critical habitats” for endangered and threatened species. The lawsuit was filed Tuesday in U.S. District Court for the Southern District of Alabama against the U.S. Secretary of the Interior, National Marine Fisheries Service, U.S. Secretary of Commerce and U.S. Fish and Wildlife Service.

“Washington bureaucrats have gone beyond common sense by seeking to expand their control to private property adjoining the habitat of an endangered species solely on the basis that these areas might one day be home to a threatened species,” said Attorney General Strange. “If this rule is unchallenged, there could be no limit to their regulatory reach, potentially setting the stage for the federal government to designate entire states or even multiple states as habitat for a particular species. Today, I joined with Arkansas and 16 others states to challenge this outrageous overreach in federal court.”

The new rules effectively declare that any area currently unoccupied by an endangered species, but which could potentially host an endangered species, could be classified as critical habitat subject to stringent regulations. The multi-state lawsuit filed by Attorney General Strange charges that the rules would allow the federal government “to designate areas as occupied critical habitat, containing the physical and biological features essential to conservation, even when those areas are neither occupied nor contain those features.”

The rules even allow the federal government to prevent activities it deems could adversely affect habitat features that do not even exist. The States note, “This overreach goes hand in glove with the Services’ new critical habitat definitions. If allowed to stand, the Services may first declare as critical habitat areas that do not have and may never have the physical and biological features necessary to support a species and then prohibit an activity that might prevent the development of those features. For example, under the Final Rules, the Services could declare desert land as critical habitat for a fish and then prevent the construction of a highway through those desert lands, under the theory that it would prevent the future formation of a stream that might one day support the species. Or the Services could prevent a

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landowner from planting loblolly pine trees in a barren field if planting longleaf pine trees might one day be more beneficial to an endangered or threatened species.”

The states joining Alabama and Arkansas in the lawsuit include Alaska, Arizona, Colorado, Kansas, Louisiana, Michigan, Montana, Nebraska, New Mexico, Nevada, North Dakota, South Carolina, Texas, West Virginia, Wisconsin and Wyoming. All states are represented by their Attorneys General except for New Mexico, which is represented by its Department of Game and Fish.

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