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Attorney General Steve Marshall Leads Multi-State Coalition in Support of Trump Administration Reforms of Endangered Species Act

(MONTGOMERY) – Alabama Attorney General Steve Marshall led a coalition of 13 states in filing a motion in federal court to defend the Trump administration’s efforts to reform the implementation of the Endangered Species Act. The new regulations are designed to make the regulatory process more transparent; streamline interagency cooperation; and spur innovation by states, environmental groups, and industry to protect at-risk species, but they have been challenged by a group of states led by California. Alabama’s motion to intervene was filed Monday in the Northern District of California in the case *State of California v David Bernhardt, U.S. Secretary of the Interior*.

“While the federal government, states, and landowners all wish to safeguard our environment, over the last decade we have witnessed an expansion of federal regulation that was both unlawful and unnecessary. Agencies claimed powers Congress never gave them and imposed burdens on landowners that did not benefit the environment,” said Attorney General Marshall. “This federal overreach triggered a number of successful lawsuits by states and landowners. Alabama has led in several of these legal challenges, and we continue to advocate in court for a transparent and commonsense implementation of the Endangered Species Act through our support of the Trump administration’s reforms.”

Recently, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service issued new rules to clarify and reform the way the Services implement the Endangered Species Act. Among those changes, the Fish and Wildlife Service will no longer by default treat a newly listed “threatened” species the same as an “endangered” species. By recognizing a middle tier between “unlisted” and “endangered” species, the rule will encourage the Services and stakeholders to develop more collaborative and tailored approaches to protecting threatened species. Similar efforts in the past have been good for both species and landowners. Furthermore, the Services have also agreed to roll back regulations passed by the Obama administration that made it possible for the agencies to regulate land as “critical habitat” for an endangered species even if the species did not occupy that land and could not survive there. The new regulations also provide states and other landowners greater predictability by providing more detail about what sorts of activities will require regulatory approvals from the Services.

The Trump administration’s reforms have been challenged in several lawsuits in the Northern District of California.

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The State of Alabama, joined by Alaska, Arizona (through its Game and Fish Commission), Arkansas, Idaho, Kansas, Missouri, Montana, Nebraska, North Dakota, Utah, West Virginia, and Wyoming filed a motion to intervene on the side of the Trump administration on Monday.

This effort follows November 2016 litigation that Alabama led, in which 20 states sued the National Marine Fisheries Service, the Fish and Wildlife Service, and the Secretaries of the Interior and Commerce, to challenge Obama administration rules that purported to allow the federal government to regulate as “critical habitat” land on which an endangered species did not and could not live. The Trump administration agreed to withdraw the rules and the states settled the lawsuit in March 2018.

In August 2017, Alabama also led 18 states in filing an amicus brief before the U.S. Supreme Court seeking to overturn a lower court decision allowing the federal government to expand critical habitat designation to areas where the protected species could not survive. The Supreme Court unanimously ruled that land is eligible for designation as critical habitat only if it is actually “habitat” for the species.

A copy of the State of Alabama’s [motion to intervene is linked here](#).