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Steve Marshall
Alabama Attorney General



For More Information, contact:

Mike Lewis (334) 353-2199

Joy Patterson (334) 242-7491

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**ATTORNEY GENERAL STEVE MARSHALL ACHIEVES RECONSIDERATION OF
FEDERAL RULES THAT EXCESSIVELY RESTRICT
PROPERTY OWNERS' USE OF LAND**

(MONTGOMERY) – Attorney General Steve Marshall announced today that, in light of a lawsuit filed by Alabama and joined by 19 States, the federal government has agreed to reconsider rules adopted during the Obama administration that restrict property owners' use of land.

In 2016, federal agencies adopted two new rules that allowed the federal government to designate land as "critical habitat" for an endangered species, even if that species did not presently live on that land and even if the land failed to possess the biological features necessary for the survival of the species. Alabama filed a lawsuit, *Alabama v. National Marine Fisheries Service*, in November of 2016 in the U.S. District Court for the Southern District of Alabama challenging the two rules as an unlawful federal overreach. This lawsuit was joined by 19 other States and four national trade associations that represented broad industry and public interests impacted by the rules, including homebuilding, utilities, oil and gas. Today's settlement requires the federal agencies to submit revised rules for public review within 60 days and retains the States' ability to file another lawsuit should the new rules perpetuate the alleged overreach.

"We are encouraged that the Trump administration has agreed to revisit these rules, which threaten property owners' rights to use any land that the federal government could dream that an endangered species might ever inhabit," said Attorney General Marshall. "These Obama-era rules were not only wildly unreasonable, but contrary to both the spirit and the letter of the Endangered Species Act.

"Congress purposefully set a stricter standard for when unoccupied land could be classified as critical habitat, and that is only if the currently inhabited land is not adequate to the species' survival and the unoccupied land is essential to preserve the species. Furthermore, the Act recognizes the rights of States to be involved in such regulations. The rules imposed by the Obama administration violated the intent of Congress and defy common sense.

These rules even allowed the federal government to prevent activities it decided could adversely affect habitat features that do not actually exist. For example, as the States noted in their complaint, the federal government 'could declare desert as critical habitat for fish and then prevent the construction of a highway through desert lands, under the theory that it would prevent the future formation of a stream that might one day support the species.' "

States joining Alabama in the settlement are Alaska, Arkansas, Arizona, Colorado, Idaho, Kansas, Louisiana, Michigan, Missouri, Montana, Nebraska, New Mexico, Nevada, North Dakota, South Carolina, Texas, West Virginia, Wisconsin and Wyoming.

In a related case that is still pending, Attorney General Marshall led Alabama and 17 other states in asking the U.S. Supreme Court to overturn a decision by the U.S. Fifth Circuit Court of Appeals that favored application of the Obama-era rule. The Supreme Court agreed to hear the case, *Weyerhaeuser v. U.S. Fish and Wildlife Service*, in October, and Alabama is leading a group of States supporting the land owner.

