



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Endangered Species Act: Environmental Groups Motion to Intervene in Litigation Challenging Critical Habitat Rules

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The Southern Environmental Law Center, Black Warrior Riverkeeper, Defenders of Wildlife and the South Carolina Coastal Conservation League (collectively "SCCCL") filed a February 28th Motion to Intervene in a challenge in Federal District Court to certain rules related to the Endangered Species Act ("ESA") that had been promulgated by the National Marine Fisheries Service and the United States Fish and Wildlife Service.

Several state Attorney Generals (including Arkansas Attorney General Leslie Rutledge) filed a Motion to Intervene in the United States District Court for the Southern District of Alabama in support of revisions to ESA rules promulgated during the Obama Administration addressing the designation of critical habitats. See 81 Fed. Reg. 7,414 (Feb. 11, 2016) (amending the regulations governing the designation of critical habitat); 81 Fed. Reg. 7,214 (Feb. 11, 2016) (amending the regulatory definition of "destruction or adverse modification").

The states challenge to the ESA critical habitat rules was filed on November 29, 2016. They have asked the Court to determine that the rules are invalid under both the ESA and the Administrative Procedures Act. They have asked for vacatur of the rules in their entirety and the issuance of an injunction prohibiting the United States Fish and Wildlife Service and the National Marine Fisheries Service from using, applying, enforcing, or otherwise proceeding on the basis of the rules. In addition, the states have asked that the rules be remanded to both agencies for additional rulemaking.

[A copy of the Motion including correspondence from the Office of the Alabama Attorney General \(lead Attorney General in the litigation\) can be downloaded here.](#)