

<http://www.KSCBNews.net/news/index.cfm?nk=35226>

Kansas Formally Joins Lawsuit Challenging Endangered Species Listing

Kansas yesterday formally joined an Oklahoma-led lawsuit challenging the process by which a federal agency decided to list the lesser prairie chicken as threatened, Kansas Attorney General Derek Schmidt said. Governor Sam Brownback had announced last Friday that Kansas would be joining the suit.

Schmidt filed papers in federal district court in Tulsa, Okla., for Kansas to join Oklahoma in the suit. North Dakota also joined in support of the litigation.

The suit challenges the use of a process, often called “sue and settle,” by which private interest groups can sue federal agencies and then enter into consent decrees that compel the agencies to take certain actions. One of those so-called “citizen suits” led to the federal court order that ultimately forced the U.S. Fish and Wildlife Service to make the decision that lists the lesser prairie chicken as threatened under the Endangered Species Act.

The states challenging the process argue that consent decrees cannot be used to ignore or circumvent clear provisions of federal statutory law. The lawsuit alleges that the Fish and Wildlife Service violated their statutory obligation to make ESA listing decisions “solely on the basis of the best scientific and commercial data available” and failed to adhere to the agency’s own regulations and guidelines in the rulemaking process.

State Of Kansas