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Ruling designates beach mouse habitat
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Responding to allegations that it was not doing enough to protect the endangered Alabama beach mouse, the U.S. Fish & Wildlife Service has finalized a decision to designate 1,211 acres in Gulf Shores as habitat critical to the species' survival.

The ruling was published Monday in the Federal Register and takes effect May 1.

A 2003 lawsuit filed by the Sierra Club and the Center for Biological Diversity that charged the Wildlife Service was not working fast enough to expand the beach mouse's critical habitat, even though the agency had acknowledged in 2000 that doing so was warranted.

In 2004, a federal judge in Mobile ordered regulators to revise the habitat. Since then, the beach mouse and its habitat have become a divisive issue along the Fort Morgan peninsula, which, along with parts of Gulf State Park, is the only place the mouse is found.

Builders and landowners say their property rights have been held captive by some residents and environmentalists who've used the species' endangered status to prevent development along the slender spit of sand.

Environmentalists argue that the beach mouse is a bellwether species whose declining presence indicates impending ecological disaster on Baldwin County's last remaining natural beaches.

While the new beach mouse area includes only about 200 acres more than the 1,034 acres designated when the mouse was first classified as endangered in 1985, Wildlife Service biologist Rob Tawes said government scientists aimed to reconfigure the critical habitat using newer science rather than simply adding more land.

"We know a lot more about the mouse than we did in 1985," Tawes said Wednesday.

The critical habitat tag, for example, was placed on layers of dunes and scrub area north of the beach that had not previously been considered critical habitat, Tawes said.

Also, he said, the critical habitat tag was in many cases removed from land where habitat conservation plans are in place -- which range from portions of the Gulf State Park and the Bon Secour National Wildlife Refuge to large tracts slated for resort development -- as well as properties whose owners have been given permits absolving them from incidentally "taking," or harming, the mouse.

It is those exclusions that mar the Wildlife Service's ruling, said Robert Wiygul, a Mississippi lawyer who's represented the Sierra Club in its beach mouse-related lawsuits.

By not including land for large-scale developments, such as Beach Club West and Gulf Highlands, which were awarded incidental take permits earlier this month, as critical habitat, federal regulators are giving developers a free pass, Wiygul said.

"This is, frankly, a document that's more protective of the real estate developers than the Alabama beach mouse," Wiygul said Wednesday.

The 41-page critical habitat ruling is flawed, Wiygul said, in that it never explains what regulators plan to do to help the species recover or proliferate to a degree that it can be removed from the endangered species list.

"They absolutely won't tell you that," Wiygul said.

In the ruling, the Wildlife Service writes that this critical habitat designation, like others it has made for other species, is "driven by litigation and courts rather than biology."

The agency continues, writing that the money spent on critical habitat legal battles and the resulting plans consume limited funds that could be used for more effective conservation efforts.

Further, the plans often provoke a second round of lawsuits, the agency said.

Mike Groutt, a spokesman for the Wildlife Service's Daphne field office, said that language has been the agency's general stance for several years and doesn't necessarily reflect the regulators' opinion of the beach mouse plan.

Tawes, who worked on the plan using 20 years of data, field inspections, trapping studies, aerial photographs and new science about

beach mice, said he feels the Wildlife Service has done a thorough job of identifying areas that have features essential to the mouse's survival.