

MAY 25 2012



CENTER for BIOLOGICAL DIVERSITY

Because life is good.

Via E-mail and Certified Mail - Return Receipt Requested

May 22, 2012

Ken Salazar, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240
exsec@ios.doi.gov

Dan Ashe, Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, DC 20240
Dan_Ashe@fws.gov

Janet Mizzi, Chief
Division of Endangered Species
Southeast Regional Office
U.S. Fish and Wildlife Service
1875 Century Blvd.
Atlanta, GA 30345
Janet_Mizzi@fws.gov

Re: Notice of Intent to Sue for Failure to Issue 12-month Findings for 25 Species of Southeastern Amphibians and Reptiles as Required by the Endangered Species Act

Dear Sirs and Madam:

This letter serves as official notice by the Center for Biological Diversity of our intent to sue the U.S. Fish and Wildlife Service and Ken Salazar, Secretary of the U.S. Department of the Interior, for failing to make the required 12-month findings on 25 species of amphibians and reptiles in violation of Section 4 of the Endangered Species Act ("ESA"). 16 U.S.C. § 1533(b)(3)(B). This letter is being provided to you pursuant to the 60-day notice requirement of the citizen suit provision of the ESA. 16 U.S.C. § 1540(g)(2)(C).

In response to a petition to list a species as threatened or endangered, the ESA requires the Secretary to determine to the maximum extent practicable within 90 days whether the petition "presents substantial scientific or commercial information indicating that the petitioned action may be warranted" ("90-day finding"). 16 U.S.C. § 1533(b)(3)(A). The ESA also requires that the Secretary make a finding on whether the listing is warranted "within 12 months after

receiving a petition that is found . . . to present substantial information indicating that the petitioned action may be warranted” (“12-month finding”). 16 U.S.C. § 1533(b)(3)(B).

On April 20, 2010, the Center for Biological Diversity and its allies filed a petition to list 404 aquatic species from the southeastern United States, including 28 species of amphibians and reptiles. The agency issued positive 90-day findings for 374 of these species on September 27, 2011, including 25 of the 28 species of amphibians and reptiles. 76 Fed. Reg. 59836. The 12-month findings for these 25 species of amphibians and reptiles were due on April 20, 2011. Accordingly, the agency is in violation of the law and has abrogated its duty to ensure that protection of endangered species occurs in a timely manner.

Specifically, the following 12 reptiles have overdue 12-month findings: Kirtland’s snake (*Clonophis kirtlandii*), western chicken turtle (*Deirochelys reticularia miaria*), Florida keys mole skink (*Eumeces egregius egregius*), Barbour’s map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), Pascagoula map turtle (*Graptemys gibbonsi*), blackknobbed map turtle (*Graptemys nigrinoda*), Alabama map turtle (*Graptemys pulchra*), Lower Florida Keys striped mud turtle (*Kinosternon baurii*, pop. 1), Florida Panhandle Florida red-bellied turtle (*Pseudemys nelsoni*, pop. 1), northern red-bellied cooter (*Pseudemys rubriventris*), and Lower Florida Keys eastern ribbonsnake (*Thamnophis sauritus*, pop. 1). Further, the following 13 amphibians have overdue 12-month findings: Streamside salamander (*Ambystoma barbouri*), one-toed amphiuma (*Amphiuma pholeter*), hellbender (*Cryptobranchus alleganiensis*), Cumberland dusky salamander (*Desmognathus abditus*), seepage salamander (*Desmognathus aeneus*), Chamberlain’s dwarf salamander (*Eurycea chamberlaini*), Oklahoma salamander (*Eurycea tynerensis*), Tennessee cave salamander (*Gyrinophilus palleucus*), West Virginia spring salamander (*Gyrinophilus subterraneus*), Georgia blind salamander (*Eurycea wallacei*, formerly known as, and identified in the petition as, *Haideotriton wallacei*), Neuse River waterdog (*Necturus lewisi*), Gulf hammock dwarf siren (*Pseudobranchius striatus lustricolus*), and patch-nosed salamander (*Urspelerpes brucei*).

The amphibians and reptiles named in this notice need the protections of the Endangered Species Act to survive. Turtles, salamanders, snakes and other species of herpetofauna are some of the most rapidly disappearing species on Earth. Every day species in the United States are beset by habitat destruction, pollution, toxins, climate change and other factors that drive extinction. Protection under the Endangered Species Act is the best way to address these threats.

If within the next 60 days the agency does not make the required findings or contact us to develop a timeline for making these findings, we intend to file suit. Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,

A handwritten signature in black ink, reading "Collette L. Adkins Giese". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Collette L. Adkins Giese
Herpetofauna Staff Attorney
Center for Biological Diversity
8640 Coral Sea St. NE
Minneapolis, MN 55449-5600
cadkingiese@biologicaldiversity.org
651-955-3821

D. Noah Greenwald
Endangered Species Program Director
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211
NGreenwald@biologicaldiversity.org
503-484-7495