



February 6, 2015

Ms. Sally Jewell
Secretary of the Interior
U.S. Department of the Interior
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RE: Sixty-day notice of violation of section 4(b)(3)(A and B) of the Endangered Species Act, relating to late findings on petitions to protect six species: 'I'iwi (*Vestiaria coccinea*), Western Glacier Stonefly (*Zapada glacier*), Ashy Darter (*Etheostoma cinereum*), Candy Darter (*Etheostoma osburni*), Longhead Darter (*Percina macrocephala*), and Frecklebelly Madtom (*Noturus munitus*).

Dear Secretary Jewell:

This letter serves as a sixty-day notice from the Center for Biological Diversity of intent to sue you pursuant to the Endangered Species Act ("ESA") for failing to make required 12-month findings on four petitioned freshwater species from the southeastern United States, one species from Hawaii, and one species from Montana.

In 2010 the Center petitioned for protection for the Hawaiian bird the 'I'iwi (*Vestiaria coccinea*), and for the four southeastern aquatic species. In 2011 the Center petitioned for protection for the western glacier stonefly. 16 U.S.C. § 4(b)(3)(A) and (B). Years have

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since passed, but the Service has not yet issued determinations for these species. 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).

The 'I'iwi, or scarlet Hawaiian honeycreeper, is one of the most beautiful and recognizable birds of Hawaii. It was once widespread across the islands, but is now in danger due to the spread of avian diseases related to climate change, and also due to agricultural and urban development and non-native species.

The western glacier stonefly is a glacier meltwater-dependent stonefly known solely from a small area of Glacier National Park in Glacier County, Montana. Immature stoneflies have very narrow temperature requirements, making them especially vulnerable to extinction from increases in ambient water temperature. This narrowly endemic species is threatened by increases in water temperature and decreases in dissolved oxygen as a result of human-induced climate change in this region, specifically the loss of the glacial habitat on which this species depends. The glaciers within Glacier National Park are predicted to disappear by 2030. Loss of the glaciers, in combination with the species' limited range, limited dispersal ability, and the inherent instability of small populations, collectively threaten this rare species with extinction.

The southeastern United States is a global center of freshwater species diversity and is home to an astounding variety of freshwater animals. The rivers and streams which support these animals face many threats including pollution, drought, development, mining, logging, natural gas extraction, and global climate change. The Southeast is in the midst of an extinction crisis. More than 50 freshwater species from the region have already been lost. Freshwater species are disappearing at 1,000 the normal background extinction rate. Though often under-appreciated, freshwater species play an important role in maintaining the health of streams and rivers. The health of the Southeast's waterways, the biodiversity they support, and the human communities in the region are all interrelated. Protecting the freshwater species of the Southeast and the habitat they need to survive will also protect the health of the waterways for human communities.

In response to a petition to list a species as threatened or endangered, the ESA requires the Secretary to within 90 days determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted ("90-day finding"), and within 12 months to determine whether listing is warranted, not warranted, or warranted but precluded ("12-month finding"). 16 U.S.C. § 1533(b)(3)(A) and (B).

The petition for the 'I'iwi was filed on August 25, 2010. The Service issued a positive 90-day finding for the species on January 24, 2012. Federal Register, 77: 3423-3432. A 12-month finding for the 'I'iwi was due on January 10, 2012. The petition for the ashy darter, candy darter, longhead darter, and frecklebelly madtom was filed on April 20, 2010. The Service issued positive 90-day findings on September 27, 2011. Federal Register, 76: 59836-59862. The 12-month findings were due on April 20, 2011. The petition for the western glacier stonefly was filed on January 10, 2011. The U.S. Fish and

Wildlife Service issued a positive 90-day finding for the species on December 19, 2011. Federal Register, 76: 78601-78609. A 12-month finding was due on January 10, 2012.

Accordingly, you are in violation of the law and have abrogated your duty to ensure that the protection of endangered species occurs in a timely manner thereby avoiding further decline, increased risk of extinction, and increased cost of recovery.

Please note that on March 14, 2013, the Center filed a notice of intent to sue for failure to make 12-month findings for several other species that we first petitioned for in 2010, including the yellow lance (*Elliptio lanceolata*), sickle darter (*Percina williamsi*), trispot darter (*Etheostoma trisella*), and saddled madtom (*Noturus fasciatus*).

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

On behalf of all parties,



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