



April 13, 2015

Sally Jewell, Secretary of the Interior  
Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dan Ashe, Director  
Fish and Wildlife Service  
1849 C Street N.W., Room 3358  
Washington, DC 20240-0001

Dear Secretary Jewell and Director Ashe,

This letter serves as official notice by the Center for Biological Diversity of our intent to sue the Fish and Wildlife Service (“Service”) and Sally Jewell, Secretary of the Interior, for failing to make a 12-month finding on the black-capped petrel (*Pterodroma hasitata*) in violation of section 4 of the Endangered Species Act. 16 U.S.C. § 1533(b)(3)(B). This letter provides notice under the 60-day notice requirement of the Act. *Id.* § 1540(g)(2)(C).

In response to a petition to list a species as threatened or endangered, the Endangered Species Act 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.” *Id.* § 1533(b)(3)(A). If listing may be warranted, the Act requires the Service to conduct a status review to determine if listing a species as threatened or endangered is warranted, not warranted, or warranted but precluded. *Id.* § 1533(b)(3)(B). The Service must make this determination within 12 months of receiving the petition. *Id.*

The Service received a petition to list the black-capped petrel as threatened or endangered on September 13, 2011. On June 21, 2012, the Service issued a 90-day finding that listing may be warranted for black-capped petrel. 77 Fed. Reg. 37367 (June 21, 2012). Accordingly, a 12-month finding was due no later than September 13, 2012. To date – more than two years after its response was due – the Service has not made a determination on whether listing the black-capped petrel as threatened or endangered is warranted. Accordingly, the Service is in violation of section 4 of the Endangered Species Act, and has failed to ensure that protection of imperiled species occurs in a timely manner.

The black-capped petrel is a seabird that breeds in the Caribbean and forages along the eastern seaboard of the United States from North Carolina to Florida. Once thought to be extinct because of significant population declines, a few breeding colonies of black-capped petrels remain in Haiti and the Dominican Republic. The seabird is threatened by habitat destruction of its

breeding areas and also by offshore oil and gas development. Recently, the federal government opened the seabird's foraging grounds to oil and gas exploration and plans to offer a mid-Atlantic lease sale in 2021. Black-capped petrels are attracted to oily surfaces for foraging, and the population is highly vulnerable to oil spills. Protection under the Endangered Species Act is the best way to address these threats, prevent further population declines and ensure the population does not actually go extinct.

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

Sincerely,



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