



January 18, 2018

Mr. Ryan Zinke  
Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington DC 20240

Ms. Gloria Bell, Chief, Division of Endangered Species  
Ecological Services, Southeast Regional Office  
U.S. Fish and Wildlife Service  
1875 Century Blvd.  
Atlanta, GA 30345

**RE: Sixty-day notice of violations of the Endangered Species Act relating to late 12-month findings on petitions to protect the Carolina Madtom (*Noturus furiosus*) and Neuse River Waterdog (*Necturus lewisi*)**

Dear Secretary Zinke:

This letter serves as a sixty-day notice from the Center for Biological Diversity and Perrin de Jong of our intent to sue you pursuant to the Endangered Species Act (“ESA”) for failing to make required 12-month findings on two petitioned freshwater species from North Carolina, the Carolina Madtom (*Noturus furiosus*), and the Neuse River Waterdog (*Necturus lewisi*). The Center and allies petitioned for protection for the Carolina Madtom and Neuse River Waterdog as threatened or endangered species on April 20, 2010, under the Endangered Species Act. 5 U.S.C. § 553(e). 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 within 90 days whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted (“90-day finding”), and to determine within 12 months whether listing is warranted, not warranted, or warranted but precluded (“12-month finding”). *Id.* § 1533(b)(3)(A) and (B).

On September 27, 2011, the U.S. Fish & Wildlife Service issued a 90-day finding determining listing may be warranted under the Endangered Species Act for both the Carolina Madtom and the Neuse River Waterdog. 76 FR 59835 – 59862. In both the case of the Carolina Madtom and the Neuse River Waterdog, the due date for the 12-month finding was April 20, 2011. 16 U.S.C. § 1533(b)(3)(B). The Service, however, has failed to issue a timely 12-month finding for either of the species, which findings are both over six years late.

In 2016, the U.S. Fish and Wildlife Service developed a National Listing Workplan, which was intended to prioritize the agency's workload based on the needs of candidate and petitioned species. According to this workplan, the Carolina Madtom and Neuse River Waterdog were scheduled to have received a joint 12-month finding by the end of fiscal year 2017, but this has not occurred.

Accordingly, you are in violation of 16 U.S.C. § 1533(b)(3)(B) and have abrogated your duty to ensure that protection of endangered species occurs in a timely manner, thereby avoiding further decline and increased risk of extinction. If the Secretary does not make the required findings for the Carolina Madtom and Neuse River Waterdog, or contact us to develop a timeline for making the finding 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.

Sincerely,



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