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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
TUCSON DIVISION**

Center for Biological Diversity, a
non-profit organization,

Plaintiff,

v.

U.S. Fish and Wildlife Service; Deb
Haaland, in her official capacity as
Secretary of the Interior,

Defendants.

Case No.: _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiff Center for Biological Diversity (“Center”) challenges the
unlawful decision of the U.S. Fish and Wildlife Service (“Service”) to deny Endangered

1 Species Act (“ESA”) protections to the Tucson shovel-nosed snake (*Chionactis annulate*
2 *klauberi*).

3 2. The Tucson shovel-nosed snake is striking in appearance, characterized by
4 alternating black-and-red stripes over its cream-colored body. Shovel-nosed snakes are
5 well-known habitat specialists, largely to entirely restricted to sand and sandy loam
6 substrates on valley floors, and the Tucson shovel-nosed snake is uniquely adapted to
7 swim through sandy soils using its spade-shaped snout.

8 3. The Tucson shovel-nosed snake’s range is geographically restricted to
9 northwestern and east-central Maricopa County, Pinal County, and if the species can still
10 be found, northeastern Pima County. A preeminent expert estimated that that the species
11 has already lost 39 percent of its historic habitat to agriculture and urban development.
12 Nearly all of its remaining habitat is unprotected and vulnerable to development.

13 4. The Center first petitioned to list the Tucson shovel-nosed snake in 2004.
14 In 2010, the Service found that listing was warranted, and that the entire remaining range
15 of the species was in the path of future development. 75 Fed. Reg. 16,058 (March 31,
16 2010). However, in 2014, the Service reversed course and concluded that the Tucson
17 shovel-nosed snake does not warrant protection. 79 Fed. Reg. 56,731 (September 23,
18 2014).

19 5. In March 2015, a preeminent expert on the species, the late Dr. Phil Rosen,
20 sent the Service a letter identifying 5 fundamental problems with the agency’s not
21 warranted determination: 1) the Tucson shovel-nosed snake is a habitat specialist, not a
22 habitat generalist; 2) the Tucson shovel-nosed snake has experienced severe population
23 declines in the core of its range; 3) the Tucson shovel-nosed snake is vulnerable to
24 habitat destruction; 4) the agency overestimated the local distribution of the Tucson
25 shovel-nosed snake; and 5) the agency’s assumed extent and shape of the Tucson
26 shovel-nosed snake’s range is arbitrarily large and inconsistent with the best available
27 scientific information.
28

1 in the notices and an actual controversy exists between the parties within the meaning of
2 the Declaratory Judgment Act, 28 U.S.C. § 2201.

3 12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because
4 Plaintiff resides in this judicial district and a substantial part of the violations of law by
5 Defendants occurred in this district.

6 **PARTIES**

7 13. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY is a national, non-
8 profit conservation organization that works through science, law, and policy to protect
9 imperiled wildlife and their habitat. The Center is headquartered in Tucson, Arizona,
10 with offices throughout the United States, and an office in Mexico. The Center has more
11 than 81,000 active members throughout the country.

12 14. The Center brings this action on behalf of its organization, and its staff and
13 members who derive ecological, recreational, aesthetic, educational, scientific,
14 professional, and other benefits from the Tucson shovel-nosed snake, and its Sonoran
15 Desert habitat. The Center's headquarters are in Pima County, within the Tucson shovel-
16 nosed snake's range, and its members and staff live near and/or regularly visit areas
17 where Tucson shovel-nosed snakes are known or believed to exist, in hopes of viewing
18 this increasingly elusive and rare species.

19 15. Center member Noah Greenwald, Director for the Center for Biological
20 Diversity's Endangered Species Program, has concrete plans to search for the snake in
21 October 2022. He was the lead author for two federal ESA petitions to list the Tucson
22 shovel-nosed snake and has worked on projects to protect the species from various
23 threats. He cares deeply about the conservation of this unique species in the wild.
24 Ongoing threats from rampant development and the threats of the escalating climate
25 crisis on the future existence of this lizard and its habitat harm his interests in the
26 species.

27 16. The Center's members have been, are being, and will continue to be
28 adversely harmed by the Service's unlawful determination that the Center's 2020 listing

1 petition failed to present substantial information indicating that listing the Tucson
2 shovel-nosed snake as a threatened or endangered species may be warranted, and its
3 failure to afford the species the protections of the Act. The injuries described are actual,
4 concrete injuries presently suffered by the Center and its members, and they will
5 continue to occur unless this Court grants relief. The relief sought herein—including an
6 Order vacating the 90-day finding and ordering the Service to undertake a species status
7 review immediately, and to issue a 12-month determination within one year of the entry
8 of judgment—would redress those harms. The Center and its members have no other
9 adequate remedy at law.

10 17. Defendant U.S. FISH AND WILDLIFE SERVICE is the agency within
11 the Department of the Interior charged with implementing the ESA for the species at
12 issue in this suit. The Secretary of the Interior has delegated administration of the ESA
13 to the Service. 50 C.F.R. § 402.01(b).

14 18. Defendant DEB HAALAND is the Secretary of the U.S. Department of the
15 Interior and has the ultimate responsibility to administer and implement the provisions of
16 the ESA. Defendant Haaland is sued in her official capacity.

17 **STATUTORY FRAMEWORK**

18 **The Endangered Species Act**

19 19. The Endangered Species Act, 16 U.S.C. §§ 1531–1544, is “the most
20 comprehensive legislation for the preservation of endangered species ever enacted by
21 any nation.” *TVA v. Hill*, 437 U.S. 153, 180 (1978). Its fundamental purposes are “to
22 provide a means whereby the ecosystems upon which endangered species and threatened
23 species depend may be conserved [and] to provide a program for the conservation of
24 such endangered species and threatened species.” 16 U.S.C. § 1531(b).

25 20. The ESA’s substantive protections generally apply only once the Service
26 lists a species as threatened or endangered. For example, section 7 of the ESA requires
27 all federal agencies to ensure that their actions do not “jeopardize the continued
28 existence” of any listed species or “result in the destruction or adverse modification” of a

1 species' "critical habitat." *Id.* § 1536(a)(2). Section 9 of the ESA prohibits, among other
2 things, "any person" from intentionally taking listed species, or incidentally taking listed
3 species, without a lawful authorization from the Service. *Id.* §§ 1538(a)(1)(B), 1539.
4 Other provisions require the Service to designate "critical habitat" for listed species, *id.* §
5 § 1533(a)(3); to "develop and implement" recovery plans for listed species, *id.* §
6 1533(f); authorize the Service to acquire land for the protection of listed species, *id.* §
7 1534; and authorize the Service to make federal funds available to states to assist in its
8 efforts to preserve and protect threatened and endangered species, *id.* § 1535(d).

9 21. The ESA defines a "species" as "any subspecies of fish or wildlife or
10 plants, and any distinct population segment of any species of vertebrate fish or wildlife
11 which interbreeds when mature." *Id.* § 1532(16). A species is "endangered" when it "is
12 in danger of extinction throughout all or a significant portion of its range." 16 U.S.C. §
13 1532(6). A species is "threatened" when it is "likely to become an endangered species
14 within the foreseeable future throughout all or a significant portion of its range." *Id.* §
15 1532(20).

16 22. The ESA requires the Service to determine whether any species is
17 endangered or threatened because of any of the following factors: (A) the present or
18 threatened destruction, modification, or curtailment of its habitat or range; (B)
19 overutilization for commercial, recreational, scientific, or educational purposes; (C)
20 disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other
21 natural or manmade factors affecting its continued existence. *Id.* § 1533(a)(1).

22 23. If a species meets the definition of "endangered" or "threatened" because
23 of any one or a combination of these five factors, the Service must list the species. *Id.*;
24 50 C.F.R. § 424.11(c). In evaluating these factors, the Service must make listing
25 determinations "solely on the basis of the best scientific and commercial data available."
26 16 U.S.C. § 1533(b)(1)(A).
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28

1 24. Congress set forth a detailed process whereby citizens may petition the
2 Service to list a species as endangered or threatened. In response, the Service must
3 publish a series of three decisions according to statutory deadlines.

4 25. First, within 90 days of receipt of a listing petition, the Service must, “to
5 the maximum extent practicable,” publish an initial finding as to whether the petition
6 “presents substantial scientific or commercial information indicating that the petitioned
7 action may be warranted.” *Id.* § 1533(b)(3)(A). This is known as the “90-day finding.”

8 26. The 90-day finding is a threshold review of an ESA listing petition. In
9 making a 90-day finding, “substantial information” is “that amount of information that
10 would lead a reasonable person to believe that the measure proposed in the petition may
11 be warranted.” 50 C.F.R. § 424.14(b)(1). In the specific situation where the Service has
12 issued a decision on a previous petition to list a species, substantial information is
13 generally limited to “new information not previously considered.” 50 C.F.R. §
14 424.14(h)(iii).

15 27. If the Service finds in the 90-day finding that the petition does not present
16 substantial information indicating that listing may be warranted, as it did in this case, the
17 Service makes a decision to reject the petition and the process concludes.

18 28. If the Service instead determines that a petition does present substantial
19 information indicating that listing “may be warranted,” the agency must publish that
20 finding and proceed with a scientific review of the species’ status, known as a “status
21 review.” § 1533(b)(3)(A).

22 29. Upon completing the status review, and within 12 months of receiving the
23 petition, the Service must publish a “12-month finding” with one of three listing
24 determinations: (1) listing is “warranted”; (2) listing is “not warranted”; or (3) listing is
25 “warranted but precluded” by other proposals for listing species, provided certain
26 circumstances are met. § 1533(b)(3)(B).

27 30. If the Service determines that listing is “warranted,” the agency must
28 publish that finding in the Federal Register along with the text of a proposed regulation

1 to list the species as endangered or threatened and take public comments on the proposed
2 listing rule. *Id.* § 1533(b)(3)(B)(ii).

3 31. Within one year of publication of the proposed listing rule, the Service
4 must publish a final listing rule in the Federal Register. *Id.* § 1533(b)(6)(A).

5 **Administrative Procedure Act**

6 32. The APA provides the standard of review in lawsuits challenging the
7 Service’s ESA listing decisions. *Greater Yellowstone Coal., Inc. v. Servheen*, 665 F.3d
8 1015, 1023 (9th Cir. 2011).

9 33. Under the APA’s standard, a court must hold unlawful and set aside
10 “agency actions found to be ‘arbitrary, capricious, an abuse of discretion, or otherwise
11 not in accordance with law.’” *Id.* (quoting 5 U.S.C. § 706(2)(A)).

12 34. An agency’s rule is arbitrary and capricious if the agency, “entirely failed
13 to consider an important aspect of the problem, offered an explanation for its decision
14 that runs counter to the evidence before the agency, or is so implausible that it could not
15 be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle
16 Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

17 **FACTUAL BACKGROUND**

18 **The Tucson Shovel-nosed Snake and Threats to its Continued Existence**



1 35. The Tucson shovel-nosed snake is a small, beautiful snake that depends on
2 specific habitat requirements, including flat, sandy soils found on level terrain of valley
3 floors. It has a long, slender, and slick body that is adapted to swim through soils using
4 its spade-shaped snout, a unique behavior known as sand swimming.

5 36. The Tucson shovel-nosed snake is endemic to just three counties in the
6 upper Sonoran Desert of south-central Arizona: Pima, Pinal, and Maricopa. These
7 counties include Phoenix and Tucson, and they are experiencing some of the most rapid
8 development in the country: Arizona’s population is projected to more than double from
9 almost 6 ½ million in 2010 to more than 14 million by 2050. Rosen and Bradley (2020)
10 estimate that at least 39 percent of the snake’s habitat has been destroyed by
11 development and roads driven by rapid urban expansion of Tucson and Phoenix, as well
12 as agricultural conversion.

13 37. The large majority of the snake’s remaining habitat remains unprotected,
14 while rapid urbanization and other development within its range is expected to continue.
15 The Tucson shovel-nosed snake is also vulnerable to additional threats, including
16 industrial solar development, wildfires, climate change, and drought.

17 **2004 Listing Petition**

18 38. The Center submitted a petition to list the Tucson shovel-nosed snake on
19 December 15, 2004. On July 29, 2008, the Service issued a positive 90-day finding on
20 the Center’s petition, determining that protection of the species may be warranted under
21 the ESA. 73 Fed. Reg. 43,907. Specifically, the Service found the Center’s petition
22 “provides substantial information to support the claim that agricultural and urban
23 development present direct and indirect threats to the Sonoran Desert scrub habitat upon
24 which the Tucson shovel-nosed snake currently depends.” *Id.* at 43,908. The Service
25 found that the Center’s claims regarding loss and degradation of Tucson shovel-nosed
26 snake habitat “relating to threats from agricultural and urban development are credible
27 and substantial” and that existing regulatory mechanisms on state and private lands were
28 inadequate to conserve the snake. *Id.*

1 39. Moreover, the Service noted the expertise of Dr. Rosen, the herpetologist
2 the Center worked with in drafting its petition. The Service stated that Dr. Rosen studied
3 shovel-nosed snakes for over 17 years, authored articles on the snake, and, among other
4 notable achievements in the study of the species, “[Rosen] has been instrumental in
5 various aspects of conservation of reptiles and amphibians in the southwestern United
6 States.” *Id.*

7 40. On March 31, 2010, the Service issued its 12-month finding, determining
8 that listing was warranted based on the snake’s “limited geographic distribution” and its
9 finding that because the snake’s “entire range lies within the path of future
10 development,” it is likely to become in danger of extinction within the foreseeable
11 future. 75 Fed. Reg. 16,058.

12 41. However, instead of protecting the snake, the Service determined that
13 ESA-protections were precluded by higher priority listings and placed it on the candidate
14 list. *Id.* A candidate species is one that qualifies for protection as an endangered or
15 threatened species, yet it receives no protection while it waits—often for years—for the
16 Service to promulgate a regulation listing the species as endangered or threatened. The
17 Service subsequently reaffirmed the need for listing the Tucson shovel-nosed snake,
18 reconfirming its status as a candidate species in 2011, 2012, and 2013. 76 Fed. Reg.
19 66,396 (October 26, 2011); 77 Fed. Reg. 70,018 (November 21, 2012); 78 Fed. Reg.
20 70,123 (November 22, 2013).

21 42. On September 9, 2011, the Center reached a settlement with the Service
22 requiring the agency to make overdue decisions on 757 species, including the Tucson
23 shovel-nosed snake. *In Re Endangered Species Act Section 4 Deadline Litigation*, Case
24 No. 1:10-mc-00377-EGS (Docket No. 42-1). Under the settlement agreement, the
25 Service was required to issue a proposed listing rule or not warranted determination for
26 the species by the end of Fiscal Year 2014.

1 **2014 Species Status Assessment and Not-Warranted Determination**

2 43. In 2014, the Service completed a Species Status Assessment (“SSA”) to
3 inform its required decision regarding the Tucson shovel-nosed snake. In the SSA, the
4 Service relied heavily upon a genetic study that at that time was in press (Wood *et al.*
5 2014) to expansively redraw and expand the species’ range. *See, e.g.*, SSA p. 49 (“Based
6 on recent genetic work . . . the range of the Tucson shovel-nosed snake is substantially
7 larger than previously thought.”). The SSA also presented a new and inaccurate
8 characterization of the species as a habitat generalist.

9 44. Based upon its incorrect description of the Tucson shovel-nosed snake as a
10 habitat generalist with a much larger range than previously believed, the SSA concluded
11 “that the current condition of the Tucson shovel-nosed snake, range wide, is more than
12 adequate for what the subspecies need to maintain long term viability.” (p. 49)

13 45. Based on the SSA findings, rather than issuing a proposed listing rule, the
14 Service reversed course from its many prior determinations, since 2010, that the Tucson
15 shovel-nosed snake warranted ESA protections due to the species dire status and grave
16 threats, and instead issued a not-warranted determination. 79 Fed. Reg. 56,731
17 (September 23, 2014).

18 **Rosen 2015 Letter**

19 46. Dr. Phil Rosen, a preeminent expert on the species, and who the Service
20 itself identified as “instrumental” in the conservation of Southwestern species, wrote the
21 Service on March 16, 2015, to identify “five problems with the agency’s ‘not warranted’
22 finding and the SSA Report.” As detailed in that letter, these five problems are: (1) the
23 Tucson shovel-nosed snake, like all members of the *C. occipitalis* complex, are habitat
24 specialists, not generalists as stated by the Service; (2) the Tucson shovel-nosed snake
25 has experienced severe population declines and extirpation in the core of its genetic
26 distribution, including the loss of the Avra Valley population, contradicting statements
27 by the Service; (3) the Tucson shovel-nosed snake is vulnerable to habitat fragmentation;
28 (4) the Service’s habitat model overestimates the distributional boundaries of the taxon;

1 and (5) “most critically,” the Service’s assumed extent and shape of the Tucson shovel-
2 nosed snake’s range is arbitrarily large, and inconsistent with the key source referenced
3 (Wood et al. 2014). Based on these errors, Dr. Rosen recommended that the Service re-
4 evaluate the status of the species based on a “narrower” and “geographically restricted”
5 concept of the taxon.

6 **2020 Habitat and Conservation Status Study**

7 47. Dr. Rosen also co-authored a peer-reviewed study on the habitat and
8 conservation status of the Tucson shovel-nosed snake published in 2020 (Bradley and
9 Rosen 2020). This study found that the model used by the Service in its 2014 not-
10 warranted determination yielded an estimated area of suitable habitat 2.4 times greater
11 than the authors’ estimates. The authors identified several reasons for the Service’s
12 overestimation of habitat in their model.

13 48. First, the Service’s model only includes two habitat variables, elevation
14 and land cover, and neglects to include slope, which is an important variable because the
15 snake is known to inhabit valley bottoms and not steep hillsides.

16 49. Second, the Service’s model includes areas of up to 1,500 meters (4,921
17 feet) in elevation, which is over twice the maximum elevation for any Tucson shovel-
18 nosed snake record within Arizona.

19 50. Third, the Service relied on land cover to predict habitat. The authors
20 found that variable to be lacking because climate variables that included precipitation
21 and temperature performed better at predicting the snake’s habitat.

22 51. Finally, the authors noted that the Service’s model relied on snake
23 observations in La Paz County that were presumed to be Tucson shovel-nosed snakes
24 based on limited DNA and morphological evidence. The Service’s inclusion of these
25 questionable records greatly expanded their range boundary for the species to the west,
26 whereas the authors used a preponderance of evidence approach to determine the
27 observations used in their model.
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1 52. The study also noted that the Service failed to address the species'
2 extirpation in Avra Valley and corresponding range reduction in its 2014 not-warranted
3 determination. Further studies have determined that the snake has also become rare in
4 the Scottsdale, Florence, and Casa Grande regions. Finally, the study found 60 percent
5 less habitat available to the snake compared to the Service's model, not including habitat
6 that has already been rendered unsuitable due to urbanization and agricultural
7 conversion. The study concludes by noting that the remaining habitat available to the
8 Tucson shovel-nosed snake are typical sitings for solar energy fields and are rapidly
9 being urbanized. *Id.*

10 **2020 Listing Petition**

11 53. On September 24, 2020, the Center submitted a new petition to list the
12 Tucson shovel-nosed snake as threatened or endangered under the ESA. The 2020
13 Petition incorporates the Rosen 2015 letter, Bradley and Rosen 2020 habitat and
14 conservation status study, as well as new information regarding habitat threats not
15 previously considered by the Service in its 2014 not warranted determination. As
16 detailed in the 2020 Petition, this previously unconsidered new information shows that
17 the Service's 2014 decision adopted an overly expansive definition of the Tucson
18 shovel-nosed snake's range based on an erroneous interpretation of the genetics study
19 (Wood et al. 2004), as well as other errors.

20 54. The new petition also presented information making clear the Service had
21 misinterpreted Wood et al. (2014) to conclude that the Tucson shovel-nosed snake's
22 range was considerably larger than previously known, noting that the study specifically
23 identified northwestern Maricopa County as the limit of the snake's range (Petition at 7)
24 and does not include Yavapai, Yuma, and La Paz Counties as claimed in the Service's
25 2014 not-warranted finding. 79 Fed. Reg. 56,732. In the 2021 negative 90-day finding,
26 the Service did not refute this conclusion or explain its reason for relying on Wood et al.
27 (2014) to reach a conclusion directly contradicted by the study itself.

1 **2021 Negative 90-Day Finding**

2 55. On September 29, 2021, the Service issued its negative 90-day finding,
3 determining that the 2020 Petition did not “present substantial scientific or commercial
4 information” or any “new information not previously considered” that would indicate
5 listing the Tucson shovel-nosed snake may be warranted. 86 Fed. Reg. 53,937.

6 **CLAIM FOR RELIEF**

7 **Violation of the ESA and APA in Determining that the Center’s Petition**
8 **Did Not Present Substantial Information that Listing the**
9 **Tucson Shovel-Nosed Snake May Be Warranted**

10 56. Plaintiff re-alleges and incorporates all allegations set forth in the
11 preceding paragraphs.

12 57. The Service’s 90-day finding that the Center’s Petition did not present
13 substantial information that listing the Tucson shovel-nosed snake may be warranted is
14 unlawful. Under the 90-day “reasonable person” standard, in cases involving
15 contradictory evidence, the Service must defer to information that supports the
16 petitioner’s position. 50 C.F.R. § 424.14(b)(1). Here, the Service failed to address
17 extensive new scientific information not previously considered regarding the Tucson
18 shovel-nosed snake’s habitat and conservation status, including the detailed critique
19 contained in the Rosen 2015 letter and the 2020 study (which was in press at the time the
20 2020 Petition was submitted). This new information contradicts several fundamental
21 aspects of the Service’s negative 90-day finding, including the agency’s findings
22 regarding the size of the species’ range, its habitat preferences, and the extent of its
23 population declines.

24 58. The Service did not evaluate the new information, however. Instead, the
25 negative 90-day finding mischaracterizes the 2020 Petition, stating that the agency
26 “stand[s] by our previous determination that genetic analysis is a better scientific method
27 than color patterns for determining which subspecies a shovel-nosed snake belongs to.”
28 86 Fed. Reg. at 53,941. The Center, however, has never argued that color patterns are
superior to genetic analysis in determining taxonomy. The 2020 Petition makes no such

1 argument, nor does the Rosen 2015 letter, 2020 study, or any of the other new
2 information. The Service failed to adequately address the substantial amount of
3 contradictory scientific information undermining its 2014 not-warranted determination,
4 or to explain why it believed that new information was unreliable or otherwise wrong.

5 59. Even if the Service had evaluated it, this new information regarding the
6 snake's conservation status and habitat easily meets the low threshold for 90-day "may
7 be warranted" determinations. At the 90-day stage, the question is not whether the
8 designation is warranted, only whether it may be. Where there is a disagreement among
9 reasonable scientists, the Service must make the "may be warranted" finding and move
10 to the more detailed consideration required at the 12-month stage.

11 60. The Service's negative 90-day finding contained additional errors,
12 including a failure to acknowledge new information and data regarding the continued
13 and foreseeable threats to the species from urbanization and roads, agriculture, and
14 climate change. Instead, the Service repeats its previous findings and wrongly concludes
15 that these threats were already analyzed.

16 61. The Service's finding also arbitrarily dismisses several additional elements
17 of the 2020 Petition, including the threats of disease and commercial trade.

18 62. By ignoring the new scientific information provided with the Center's
19 listing petition, the Service's 90-day finding also violates the ESA's substantive mandate
20 to make listing determinations "solely on the basis of the best scientific and commercial
21 data available." 16 U.S.C. § 1533(b)(1)(A).

22 **REQUEST FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment
24 providing the following relief:

- 25 1. Declare that the Service's 90-day finding violates the ESA and the APA, 5
26 U.S.C. §§ 701-706;

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2. Vacate the Service’s negative 90-day finding and order the Service to undertake a species status review immediately, and to issue a 12-month determination within one year of the entry of judgment;
3. Retain continuing jurisdiction to ensure compliance with all judgments and orders herein;
4. Grant Plaintiff its reasonable attorneys’ fees and costs as provided by the ESA, 16 U.S.C. § 1540(g)(4); and
5. Provide such other relief as the Court deems just and proper.

Respectfully submitted and dated this 23rd day of June, 2022.

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