



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

January 16, 2013

Mr. Ren Lohofener
Pacific Southwest Regional Director
U.S. Fish and Wildlife Service
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

RE: Sixty-day notice of violation of section 4(b)(3)(A, and B) of the Endangered Species Act, relating to a late finding on a petition to list the Sierra Nevada Red Fox (*Vulpes vulpes necator*) as a threatened or endangered species.

Dear Secretary Salazar,

This letter serves as a sixty-day notice from the Center for Biological Diversity, Taylor McKinnon, and other interested parties of intent to sue you pursuant to the Endangered Species Act (“ESA”) for failing to make required findings on a petition to list the Sierra Nevada red fox (*Vulpes vulpes necator*) as a threatened or endangered species under the Endangered Species Act. 16 U.S.C. § 4(b)(3)(A) and (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 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 Sierra Nevada red fox was filed April 27, 2011. The U.S. Fish and Wildlife Service issued a positive 90-day finding on the petition on January 3, 2012, Federal Register, 77: 00045-00052. A 12-month finding was due on April 27, 2012. Accordingly, you are in violation of the law 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.

The Sierra Nevada red fox is a critically endangered subspecies of red fox native to California and Oregon. Sierra Nevada red fox historically occupied alpine and subalpine habitats in the Sierra Nevada and Cascade Mountains at low population densities. Recent genetic research indicates that the Sierra Nevada red fox consists of two closely-related populations, one in the Sierra Nevada and the other in the Cascade Mountains south of the Columbia River. Montane red foxes in Oregon’s Cascade Mountains were previously considered to be Cascade red fox (*Vulpes vulpes cascadenensis*).

Sierra Nevada red fox has undergone precipitous declines over the past century. It is today restricted to two relict populations in California; one known population that may consist of fewer

than 20 foxes near Lassen Peak and a second very small population near Sonora Pass. Recent montane red fox sightings post-dating the Center's petition suggest relict populations may also persist in the Cascade Mountains of Oregon near Crater Lake, Sparks Lake and Mt. Hood.

The perilously small size, isolation, and low reproductive potential of remaining Sierra Nevada red fox populations renders them particularly vulnerable to extinction. That vulnerability is magnified by threats including development, climate change, disease, fire suppression, logging, livestock grazing, wildlife control activities, rodenticide use, hunting, trapping, recreation and other factors. Given the fox's perilously small population, any of those threats could trigger extinction.

Despite being protected from intentional trapping in California since 1974, and despite being listed as threatened under the California Endangered Species Act since 1980, state protections have not curbed fox declines in recent decades. Even after 32 years of California Endangered Species Act protection, a coordinated, range-wide inter-agency program to research, monitor, protect and recover Sierra Nevada red fox populations remains elusive. The resulting lack of basic ecological information about the fox remains a threat to the species today just as it did in 1980. These facts demonstrate the inadequacy of existing regulatory mechanisms to protect the red fox from extinction.

The Endangered Species Act states that a species shall be determined to be endangered or threatened based on any one of five factors (16 U.S.C. § 1533 (a)(1)). The Sierra Nevada red fox is threatened by all five of these factors and warrants listing as a threatened or endangered subspecies; it is imminently threatened with extinction due to loss and curtailment of habitat or range, overutilization, disease and predation, numerous other natural and human-caused factors, and the inadequacy of existing regulatory mechanisms to ensure its continued existence.

If the Secretary does not make the required finding for the Sierra Nevada red fox or contact us to develop a timeline for making this 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,

A handwritten signature in black ink, appearing to read 'Taylor McKinnon', written in a cursive style.

Taylor McKinnon
Public Lands Campaigns Director
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