



Via E-mail and Certified Mail - Return Receipt Requested

January 29, 2013

Ken Salazar, Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240
exsec@ios.doi.gov

Dan Ashe, Director
U.S. Fish and Wildlife Service
1849 C Street NW
Washington, DC 20240
Dan_Ashe@fws.gov

Janet Mizzi, Chief
Division of Endangered Species
Southeast Regional Office
U.S. Fish and Wildlife Service
1875 Century Blvd.
Atlanta, GA 30345
Janet_Mizzi@fws.gov

Re: Notice of Intent to Sue for Failure to Issue a 12-month Finding for the Eastern Diamondback Rattlesnake as Required by the Endangered Species Act (FWS-R4-ES-2012-0006)

Dear Sirs and Madam:

This letter serves as official notice by the Center for Biological Diversity of our intent to sue the U.S. Fish and Wildlife Service and Ken Salazar, Secretary of the U.S. Department of the Interior, for failing to make a required 12-month finding on the eastern diamondback rattlesnake (*Crotalus adamanteus*) in violation of Section 4 of the Endangered Species Act (“ESA”). 16 U.S.C. § 1533(b)(3)(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 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” (“90-day finding”). 16 U.S.C. § 1533(b)(3)(A). The ESA also requires that the Secretary make a finding on whether listing is warranted “within 12 months after receiving a

petition that is found . . . to present substantial information indicating that the petitioned action may be warranted” (“12-month finding”). 16 U.S.C. § 1533(b)(3)(B).

On August 22, 2011, the Center for Biological Diversity and its allies filed a petition to list the eastern diamondback rattlesnake. The agency issued a positive 90-day finding for the rattlesnake on May 10, 2012. 77 Fed. Reg. 27403. The 12-month finding was due on August 22, 2012. Accordingly, the agency is in violation of the law and has abrogated its duty to ensure that protection of endangered species occurs in a timely manner.

The eastern diamondback rattlesnake is in steep decline because of habitat destruction and human persecution and cannot afford any additional delay from the agency. Protection under the Endangered Species Act is the best way to address these threats.

If within the next 60 days the agency 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,



Collette L. Adkins Giese
Herpetofauna Staff Attorney
Center for Biological Diversity
8640 Coral Sea St. NE
Minneapolis, MN 55449-5600
cadkinsgiese@biologicaldiversity.org
651-955-3821

D. Noah Greenwald
Endangered Species Program Director
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211
NGreenwald@biologicaldiversity.org
503-484-7495