



*Via Electronic and Certified Mail*

March 10, 2020

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**RE: Sixty-day Notice of Intent to Sue for Violations of the Endangered Species Act Relating to Petitions to List Eight Species of Caribbean Skink as Endangered**

Dear Secretary Bernhardt and Director Skipwith,

The Center for Biological Diversity (Center) provides this 60-day notice of its intent to sue the U.S. Fish and Wildlife Service (Service) for violating the Endangered Species Act<sup>1</sup> by failing to make 12-month findings for eight species of Caribbean skink.<sup>2</sup> Specifically, the Service violated and continues to violate Section 4 of the Act, which requires the agency to determine whether the species warrant protection as endangered or threatened within 12 months of receiving a petition for listing, a decision known as a 12-month finding.<sup>3</sup>

On February 11, 2014, the Center submitted to the Service a petition to list the eight Caribbean skinks as endangered under the Endangered Species Act and to designate critical habitat for them (Table 1).<sup>4</sup> Nearly two years later in January 2016, the Service published a finding that the petition presented substantial scientific or commercial information indicating that listing may be warranted for seven of the skink species—known as a positive 90-day finding.<sup>5</sup> In September

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<sup>1</sup> 16 U.S.C. § 1531, *et seq.*; 50 C.F.R. § 402, *et seq.*

<sup>2</sup> The Center provides this notice in accordance with Section 11(g) of the Endangered Species Act. 16 U.S.C. § 1540(g).

<sup>3</sup> 16 U.S.C. § 1533(b)(3)(B).

<sup>4</sup> Petition available at [https://www.biologicaldiversity.org/campaigns/amphibian\\_conservation/pdfs/Caribbean\\_Skinks\\_Listing\\_Petition.pdf](https://www.biologicaldiversity.org/campaigns/amphibian_conservation/pdfs/Caribbean_Skinks_Listing_Petition.pdf). The Center also petitioned to list a ninth skink species, the Monito skink, but the Service summarily denied the petition in March 2016. 81 Fed. Reg. 14,058 (Mar. 16, 2016).

<sup>5</sup> 81 Fed. Reg. 1,368 (Jan. 12, 2016).

2016, the Service published a positive 90-day finding for the Lesser Virgin Islands skink.<sup>6</sup> As of the date of this letter, the Service has not made 12-month findings regarding whether the eight Caribbean skinks warrant listing under the Endangered Species Act.

<b>Table 1 – Caribbean Skinks in 2014 Listing Petition</b>	
<b>Common Name</b>	<b>Scientific Name</b>
Culebra skink	<i>Spondylurus culebrae</i>
Mona skink	<i>Spondylurus monae</i>
Lesser Virgin Islands skink	<i>Spondylurus semitaeniatus</i>
Virgin Islands bronze skink	<i>Spondylurus sloanii</i>
Puerto Rican skink	<i>Spondylurus nitidus</i>
Greater Saint Croix skink	<i>Spondylurus magnacruzae</i>
Greater Virgin Islands skink	<i>Spondylurus spilonotus</i>
Lesser Saint Croix skink	<i>Capitellum parvicruzae</i>

When the Service receives a petition to list a species as endangered or threatened, the Endangered Species Act requires the agency to “make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted” within 90 days of receiving the petition.<sup>7</sup> If the Service finds the petition presents substantial scientific and commercial information indicating the petitioned action may be warranted, the Service must “promptly commence a review of the status of the species”<sup>8</sup> and “[w]ithin 12 months after receiving the petition” it must make a finding that the listing is: (1) warranted; (2) not warranted; or (3) warranted but precluded by higher priority listing activities.<sup>9</sup>

The Service has violated the Endangered Species Act by failing to make the required 12-month findings for the eight skinks. The Act required the Service to make these findings no later than February 11, 2015, one year after the Center filed its listing petition for the species. Yet the Service has failed to do so. Based on the statutory timelines, these findings are more than five years overdue.

The Service’s failure to make these important protection decisions places these critically endangered lizards at greater risk of extinction against mounting threats. Introduced mongooses, rats, and feral cats prey on the skinks, decimating their populations. Urban development and clear cutting for timber and agriculture annihilate their habitat. Deadly weather events fueled by climate change, like category 5 Hurricane Maria in 2017, will continue to batter the Caribbean. And sea-level rise will inundate and transform coastal habitats in the near future. As island creatures, these lizards have nowhere to go. Without the Endangered Species Act’s protections, they face a death sentence.

<sup>6</sup> 81 Fed. Reg. 63,160 (Sept. 14, 2016).

<sup>7</sup> 16 U.S.C. § 1533(b)(3)(A).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* § 1533(b)(3)(B).

In conclusion, the Service has violated the Endangered Species Act by failing to make the required 12-month findings for eight Caribbean skinks. The Service will continue to be in violation of the law until it publishes 12-month findings for them. If the Service does not make the required 12-month findings within the next sixty days, the Center intends to file suit in federal court. Please contact us if you have any questions or if you would like to discuss this matter.

Sincerely,

A handwritten signature in black ink that reads "Ecp Bennett". The signature is written in a cursive style with a large, stylized "E" and "B".

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