



October 1, 2025

*Via Electronic and Certified Mail*

Doug Burgum, Secretary of the Interior  
U.S. Department of the Interior  
1849 C Street, NW  
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**RE: Sixty-day Notice of Intent to Sue for Violations of the Endangered Species Act**

Dear Secretary Burgum, Director Nesvik, and Regional Director Souza:

The Center for Biological Diversity (“the Center”) provides this 60-day notice of intent to sue the U.S. Department of the Interior and the U.S. Fish and Wildlife Service (“the Service”) for violating the Endangered Species Act, 16 U.S.C. §§ 1531-1544 (“ESA” or “the Act”), resulting from the Service’s failure to issue a required 90-day finding on the Center’s petition to list Wilson’s phalarope. The Center provides this letter in accordance with the 60-day notice requirement of the ESA’s citizen suit provision. *Id.* § 1540(g)(2)(C).

The Center is a national nonprofit conservation organization with more than 1.8 million members and online activists dedicated to the protection of endangered species and wild places, including Wilson’s phalarope.

**SPECIES BACKGROUND AND THREATS**

Wilson’s phalarope (*Phalaropus tricolor*) is a shorebird that breeds in interior North America and undertakes a long-distance migration to South America for winter. After breeding in wetland areas in Canada and the United States, Wilson’s phalaropes migrate to “staging” sites where they rapidly molt feathers and double their body weight in preparation for a 3,000–4,000-mile-long migration to South America. Most of the population occurs at these staging sites. Wilson’s phalaropes depend on large saline waterbodies, particularly lakes with high amounts of alkali fly, brine fly, and brine shrimp prey. The birds overwinter in South America, in saline lake habitats in the High Andes (including northern Argentina, Chile, Bolivia, and southern Peru) and the lowlands of Argentina.

Wilson’s phalarope is facing the imminent threat of becoming an endangered species due to the ecological collapse and desiccation of saline lakes in the Great Basin, a critical link in the bird’s migratory journey. In 2022, Great Salt Lake reached its lowest water level in recorded history, exceeding the salinity tolerance thresholds for brine fly and brine shrimp reproduction, species that Wilson’s phalarope depends on for its unique diet. Lake Abert dried up in 2014–2015 and 2021–2022, with negative impacts on brine shrimp, alkali fly, and bird populations. Likewise, Mono Lake also reached water levels dangerous for its ecological health in 2022. In all these cases, diversion of freshwater for human use was the primary driver of the decline of water levels. In South America, the Wilson’s phalarope’s core wintering habitat in the Andes is the center of what is known as the “lithium triangle.” This area—one of the driest on Earth—has seen a rapid expansion of lithium mining and the accompanying depletion of groundwater and surface water. These and other mining activities are diminishing Wilson’s phalarope wintering habitat, putting additional pressure on the species.

### **ENDANGERED SPECIES ACT VIOLATIONS**

In response to a petition to list a species under the ESA, Section 4 requires the Service to determine within 90 days whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If the Service makes a may be warranted finding, it must determine within 12 months whether the listing is warranted, not warranted, or warranted but precluded by higher-priority actions (“12-month finding”). 16 U.S.C. § 1533(b)(3)(A), (B). If the Service determines that listing is warranted, the agency must publish that finding in the Federal Register along with the text of a proposed regulation to list the species as endangered or threatened and take public comments on the proposed listing rule. *Id.* Within one year of the proposed listing rule, the Service must publish in the Federal Register the final rule implementing its determination to list the species. *Id.* §1533(b)(6)(A).

In March 2024, the Center petitioned the Service to list Wilson’s phalarope as a threatened species under the ESA and to concurrently designate habitat. It has been over a year since the Service received the Center’s listing petition, and the agency has yet to issue a 90-day or 12-month finding as required under the ESA. The Service has abrogated its duty to ensure that Wilson’s phalarope is timely protected to avoid an increased risk of extinction, in violation of Section 4 of the ESA. If the Secretary does not make the required finding or contact us to develop a timeline for Wilson’s phalarope within 60 days, the Center intends to file suit to enforce the Act.

Sincerely,  
/s/Camila Cossío  
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