



***VIA ELECTRONIC MAIL and CERTIFIED MAIL; RETURN RECEIPT REQUESTED***

April 29, 2026

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**Re: 60-Day Notice of Intent to Sue over Violations of the Endangered Species Act  
Relating to the USDA's and DOI's "Grazing Action Plan" to Increase and Expand  
Public Lands Livestock Grazing**

To Secretary Burgum, Secretary Lutnick, Director Nesvik, Secretary Rollins, Chief Schultz, and  
Assistant Administrator Piñeiro Soler:

This letter serves as a sixty-day notice on behalf of the Center for Biological Diversity  
("Center") of intent to sue multiple agencies implementing a "Grazing Action Plan," that seeks to  
increase and expand public lands livestock grazing, The Center intends to sue the Department of

the Interior (“DOI”), Bureau of Land Management (“BLM”), U.S. Department of Agriculture (“USDA”), U.S. Forest Service, U.S. Fish and Wildlife Service (“FWS”), the U.S. Department of Commerce and the National Marine Fisheries Service (“NMFS”) for violations of Section 7 of the Endangered Species Act (“ESA”), 16 U.S.C. § 1536(a)(2). Specifically, the Center intends to file a lawsuit challenging DOI’s, BLM’s, USDA’s, and the Forest Service’s failure to timely initiate and complete consultation with FWS and NMFS regarding the impacts of the USDA’s and DOI’s Plan to increase and expand livestock grazing, as implemented through an agency Memorandum of Understanding, on federally protected species. These species include but are not limited to grizzly bears, gray wolves, Mexican wolves, razorback suckers, Mexican spotted owls, western yellow-billed cuckoos, northern Mexican garter snakes, Snake River Basin steelhead, and bull trout. This failure to consult means the agencies have failed to insure that these actions are not likely to jeopardize the continued existence of, or destroy or adversely modify the critical habitat of, the aforementioned ESA-listed species, as the ESA requires.

The Center is a national, nonprofit conservation organization with more than 1.8 million members and online activists. The Center and its members are concerned with the conservation of imperiled species and the effective implementation of the ESA, including the management of our public lands to ensure conservation of the above-listed species and their habitats.

## **I. FACTUAL BACKGROUND**

### **A. The Grazing Action Plan**

On October 22, 2025, USDA Secretary Brooke Rollins and DOI Secretary Doug Burgum, among others, announced a “Plan for American Ranchers and Consumers,” which USDA identified as “a suite of actions to strengthen the American beef industry.” USDA, Press Release, Secretary Rollins Announces Plan for American Ranchers and Consumers (Oct. 22, 2025).<sup>1</sup> USDA Secretary Rollins committed to “immediately expedite deregulatory reforms” and to “working across the government to fix longstanding common-sense barriers for ranchers like outdated grazing restrictions.”

In conjunction with this Press Release, the USDA released a White Paper describing specifics of the Plan, including, *inter alia*, reopening vacant grazing allotments across approximately 24 million acres of Forest Service and BLM lands nationwide, streamlining federal livestock permit renewals, and developing new standards of evidence to compensate ranchers for livestock predations. See USDA Plan To Fortify The American Beef Industry: Strengthening Ranches, Rebuilding Capacity, And Lowering Costs For Consumers (Oct. 20,

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<sup>1</sup> Available at <https://www.usda.gov/about-usda/news/press-releases/2025/10/22/secretary-rollins-announces-plan-american-ranchers-and-consumers> (last visited Apr. 28, 2026).

2025).<sup>2</sup> The White Paper explained that “[t]he plan will be launched via a Memorandum of Understanding (MOU) between USDA and DOI (anticipated announcement in November 2025), which will streamline and expand grazing on federal lands, elevate grazing as an Administration priority, and provide direct relief and support to America’s ranchers.” *Id.* at 2.

On March 31, 2026, Interior Secretary Burgum and Agriculture Secretary Rollins signed an MOU between DOI, BLM, USDA and the Forest Service to act together in implementing a “Grazing Action Plan.”<sup>3</sup> Through this MOU, the agencies agreed to “address the critical needs of grazing permittees,” expand grazing into vacant allotments and deregulate grazing. Specifically, the agencies agreed to the following:

- Maximize the use of targeted grazing—including on currently vacant allotments—as an active management tool and promote the availability of vacant allotments for livestock grazing. MOU ¶5, at 2.
- Leverage resources to invest in required infrastructure and analysis to increase the extent to which vacant allotments are available for long-term stocking. MOU ¶9, at 2-3.
- Expand the use of Shared Stewardship and Good Neighbor Authority agreements to address shared land management goals across multiple jurisdictions. MOU ¶6, at 2.
- Expand and implement outcome-based grazing across BLM- and Forest Service-managed lands to improve the management of federal grazing. MOU ¶7, at 2.
- Take actions to implement a goal of a no net loss of Animal Unit Months (AUMs) within allotments. The Parties will seek to mitigate issues before permanently reducing AUMs or vacating an allotment. MOU ¶10, at 3.
- Modernize the Parties’ grazing regulations and guidance to improve coordination with grazing permittees. The Parties will deregulate where appropriate, streamline processes, and incorporate beneficial flexibility when necessary. MOU ¶11, at 3.

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<sup>2</sup> Available at <https://www.usda.gov/sites/default/files/documents/USDA%20Beef%20Industry%20Plan%20White%20Paper.pdf> (last visited Apr. 28, 2026).

<sup>3</sup> Available at <https://www.usda.gov/sites/default/files/documents/mou-advancing-grazing-usfs-blm.pdf> (last visited Apr. 28, 2026).

- Utilize new and existing tools for compliance with the National Environmental Policy Act (NEPA), such as Categorical Exclusions, and the Parties’ recently updated NEPA regulations and other procedures. The tools support efficient active management, thereby leading to quicker pathways to opportunities for permittees (e.g., rangeland improvements, use of vacant allotments, targeted grazing). MOU ¶12, at 3.
- Utilize all available emergency authorities that enable the agency to expedite authorization of livestock use. This would include NEPA, National Historic Preservation Act (NHPA), and Endangered Species Act (ESA) emergency authorities and procedures to streamline permitting for emergency use for fuels reduction and displaced livestock. MOU ¶13, at 3.

Taken together, all of these agreed-upon actions are intended to increase and expand grazing without regard for the harms to other resources and values. The MOU states that it will remain in effect for five years. MOU at 4.

Further, on the same day the MOU was signed, BLM took steps to implement it, issuing a press release and map advertising hundreds of vacant allotments as “public lands available for ... grazing.”<sup>4</sup> USDA’s press release issued that same day confirms the vast extent of the Plan, stating that under the MOU, “24 million acres[] are not under permit but are targeted as opportunities to allow more grazing on federal lands.”<sup>5</sup>

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<sup>4</sup> See BLM, press release, *BLM launches new web tool to expand grazing opportunities and support healthier public lands* (Mar. 31, 2026) (“The Bureau of Land Management today announced the launch of a new [web-based map tool](#) designed to connect ranchers with information on vacant grazing allotments on public lands available for targeted prescribed grazing. .... The BLM is coordinating with federal partners to identify more vacant areas that may be suitable for grazing, expanding the options available to producers over time. The public is encouraged to check back soon for additional opportunities. All lands identified in the new tool have been evaluated for forage, land health conditions, and suitability for sustainable grazing.”), available at <https://www.blm.gov/press-release/blm-launches-new-web-tool-expand-grazing-opportunities-and-support-healthier-public> (last visited Apr. 28, 2026). See also BLM map, *Federal Grazing Lands Potentially Available*, available at [https://experience.arcgis.com/experience/0a208d6eac6144969213c68519a8cfdd/page/Page?utm\\_medium=email&utm\\_source=substack&views=Choose-Basemap](https://experience.arcgis.com/experience/0a208d6eac6144969213c68519a8cfdd/page/Page?utm_medium=email&utm_source=substack&views=Choose-Basemap) (last visited Apr. 28, 2026).

<sup>5</sup> USDA, press release, *USDA, DOI Move to Boost Support for American Ranchers, Help Lower Prices for Consumers* (Mar. 31, 2026), available at <https://www.usda.gov/about-usda/news/press-releases/2026/03/31/usda-doi-move-boost-support-american-ranchers-help-lower-prices-consumers> (last viewed Apr. 28, 2026).

## B. The Grazing Action Plan May Affect Federally Listed Species.

*The Plan may affect carnivores.* As implemented by the MOU, the Grazing Action Plan's directives to increase and expand grazing – including opening up to 24 million acres of now-vacant allotments – may negatively affect federally protected carnivores, including grizzly bears, gray wolves, and Mexican wolves.<sup>6</sup>

Grizzly bears, gray wolves, and Mexican wolves are known to prey upon livestock. Although the laws and regulations surrounding these predators vary, livestock conflicts and predations often lead to an escalation in mortalities of these listed species. Conflicts with livestock and associated human interactions often lead to these carnivores being relocated or killed by federal agency personnel, state agency personnel, or livestock owners.<sup>7</sup> Additionally, grazing may displace elk and deer due to competition with cattle.<sup>8</sup> In doing so, elk and deer—natural food sources for carnivores—are replaced with cattle, and this increases predation upon cattle.

Moreover, it is reasonable to assume that many of the vacant allotments that the Plan seeks to open to livestock use have not been grazed by cattle for decades or longer and are being used by listed carnivore species. Thus, restocking vacant allotments with livestock might not only lead to more predations but also may effectively remove and fragment habitat being used by these carnivores.<sup>9</sup> Fragmented habitat leading to carnivores being displaced can cause significant

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<sup>6</sup> The scientific sources cited in this letter may be found on the thumb drive enclosed with this letter.

<sup>7</sup> See, e.g., Adrian Treves, Mika Krofel & Jeannine McManus, *Predator control should not be a shot in the dark*, 14 *Front. Ecol. & Env't* 380 (2016) (large number of predators killed by government agencies and by private citizens over livestock conflicts); Lily M. van Eeden et al., *Carnivore conservation needs evidence-based livestock protection*, 16 *PLoS Biol* e2005577 (2018) (predation on livestock often leads to killing of carnivores); Bruce N. McLellan, Fred W. Hovey & John G. Woods, *Rates and Causes of Grizzly Bear Mortality in the Interior Mountains of Western North America*, in *Proceedings of a Conference on the Biology and Management of Species and Habitats at Risk* 673 (Kamloops, B.C. 1999) (grizzly bears being shot for killing livestock was a major mortality factor); U.S. Fish and Wildlife Serv., *Mexican Wolf Recovery Program, Progress Report no. 27* (2024) (listing livestock depredation as one of four primary causes of Mexican wolf mortality), available at <https://www.fws.gov/sites/default/files/documents/2025-09/2024-mexican-wolf-program-annual-report-final.pdf> (last visited Apr. 28, 2026).

<sup>8</sup> See, e.g., Kelley M. Stewart et al., *Temporospatial Distributions of Elk, Mule Deer, and Cattle: Resource Partitioning and Competitive Displacement*, 83 *J. Mammalogy* 229 (2002).

<sup>9</sup> See, e.g., U.S. Fish and Wildlife Serv., *Biological Opinion for the Effects to the Grizzly Bear from the Upper Green River Area Rangeland Project* (Apr. 29, 2019) (“Upper Green BiOp”), at 39 (stating grazing displaces grizzly bears from habitat as a result of humans and other activities associated with livestock grazing);

effects to an animal's feeding, breeding, or sheltering.<sup>10</sup> Fragmented habitat also impacts connectivity needed for species' ability to recover successfully.<sup>11</sup>

*The Plan may affect numerous Southwestern listed species.* The expansion of grazing may also negatively impact razorback suckers, Mexican spotted owls, western yellow-billed cuckoos, northern Mexican garter snakes, and numerous other species in Arizona and New Mexico that depend on healthy riparian habitat to survive.

Livestock grazing has both direct and indirect effects on streams and is a leading cause of species endangerment in the Southwest.<sup>12</sup> Scientific study on the impacts of livestock grazing on aquatic and riparian habitats in the Southwest is extensive and universally shows severe and lasting negative impacts. For example, livestock directly affects riparian habitat through the removal of riparian vegetation. Loss of riparian vegetation in turn raises water temperatures, reduces bank stability, and eliminates an important structural component of the stream environment that contributes to the formation of pools. Grazing physically alters streambanks through trampling and shearing, leading to bank erosion. In combination, loss of riparian vegetation and bank erosion can irreversibly alter riparian ecosystems.

Complete exclusion of cattle is widely accepted as a minimum baseline management strategy in preserving stream health. Center surveys of public land critical habitat have shown that livestock are already adversely affecting the majority of public lands critical habitat for the cuckoo and the garter snake in Arizona and New Mexico.<sup>13</sup>

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<sup>10</sup> See, e.g., Upper Green BiOp at 39, 47.

<sup>11</sup> See, e.g., Sarah N. Sells et al., *Predicted connectivity pathways between grizzly bear ecosystems in Western Montana*, 284 *Biological Conservation* (2023).

<sup>12</sup> See, e.g., Yellow-billed cuckoo (western DPS): Listed as threatened October 3, 2014 (79 Fed. Reg. 59991); final critical habitat April 21, 2021 (86 Fed. Reg. 20815); Loach minnow and spikedace: Uplisted to endangered February 23, 2012 (77 Fed. Reg. 10810); final critical habitat February 23, 2012 (77 Fed. Reg. 10810); Northern Mexican garter snake and narrow-headed garter snake: Listed as threatened July 8, 2014 (79 Fed. Reg. 38677); final critical habitat April 28, 2021 (86 Fed. Reg. 20962); Razorback sucker: Listed as endangered October 23, 1991 (56 Fed. Reg. 54950); final critical habitat March 21, 1994 (59 Fed. Reg. 13374).

<sup>13</sup> See Center for Biological Diversity, *Grazed to Death: Livestock Production Adversely Modifying Majority of Drought-Stricken Western Yellow-Billed Cuckoo Critical Habitat on Public Lands in Arizona and New Mexico* (June 2024), available at [https://biologicaldiversity.org/species/birds/yellow-billed\\_cuckoo/pdfs/Cuckoo-Adverse-Modification-Report\\_CBD\\_2024.pdf](https://biologicaldiversity.org/species/birds/yellow-billed_cuckoo/pdfs/Cuckoo-Adverse-Modification-Report_CBD_2024.pdf) (last visited Apr. 28, 2026); Center for Biological Diversity; *Grazed to Death: Livestock Production Adversely Modifying Most Critical Habitat for Northern Mexican Garter Snakes on Public Lands in Arizona* (September 2024), available at [https://biologicaldiversity.org/species/reptiles/Mexican\\_garter\\_snake/pdfs/Northern-MX-garter-snake\\_AdMod-report.pdf](https://biologicaldiversity.org/species/reptiles/Mexican_garter_snake/pdfs/Northern-MX-garter-snake_AdMod-report.pdf) (last visited Apr. 28, 2026).

Because the Grazing Action Plan seeks to open vacant allotments, “expand ... grazing,” and prevent the reduction of livestock numbers, the Plan is likely to result in increased and destructive livestock grazing in critical habitat for riparian species in the Southwest. For example, among the lands that BLM has identified as “Federal Grazing Lands Potentially Available” are lands *inside* Grand Canyon National Park and Lake Mead National Recreation Area that include or directly abut habitat for the ESA-listed razorback sucker in the Colorado River.

Further, the Forest Service manages more than a dozen vacant allotments in Arizona, Colorado, and New Mexico that overlap critical habitat for the Mexican spotted owl, the recovery plan for which identifies livestock grazing as a threat throughout the owl’s range.<sup>14</sup>

*The Plan may affect listed fish species in the Pacific Northwest and northern Rocky Mountains.* Livestock grazing can degrade, and historically has degraded, fish habitat in the Pacific Northwest. For example, the most recent five-year status review for the Snake River Basin steelhead concluded that livestock grazing represents one of the “key threats” to steelhead because it “erode[s] river banks, introduce[s] sediment load, and impair[s] riparian vegetation and large wood contribution.” NOAA, *2022 5-Year Review: Summary & Evaluation of Snake River Basin Steelhead* (July 26, 2022) at page 50.<sup>15</sup> There are dozens of vacant Forest Service allotments in Idaho, Oregon, and Washington, and at least a half-dozen vacant allotments advertised by BLM as “available” for grazing that contains streams that are designated critical habitat for steelhead.

Similarly, the most recent status assessment for the listed bull trout recognizes that livestock grazing can “degrade[] bull trout habitat by removing or degrading riparian vegetation, destabilizing streambanks, widening stream channels, promoting incised channels, lowering water tables, reducing pool frequency, increasing soil erosion, and altering water quality.” U.S. Fish and Wildlife Service, *Species Status Assessment For The Coterminous Distinct Population Segment Of Bull Trout (Salvelinus confluentus)* (Sep. 2024), at pages 76-77.<sup>16</sup> There are vacant Forest Service and BLM allotments in Idaho, Montana, Oregon, and Washington that contain streams that are designated critical habitat for bull trout.

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<sup>14</sup> FWS, Mexican Spotted Owl Recovery Plan, First Revision (Sep. 2012) at 43-44, available at [https://ecos.fws.gov/docs/recovery\\_plan/MSO\\_Recovery\\_Plan\\_First\\_Revision\\_Dec2012.pdf](https://ecos.fws.gov/docs/recovery_plan/MSO_Recovery_Plan_First_Revision_Dec2012.pdf) (last visited Apr. 28, 2026).

<sup>15</sup> Available at <https://repository.library.noaa.gov/view/noaa/45368> (last visited Apr. 28, 2026).

<sup>16</sup> Available at <https://iris.fws.gov/APPS/ServCat/DownloadFile/255078> (last visited Apr. 28, 2026).

## II. STATUTORY BACKGROUND

The ESA is “the most comprehensive legislation for the preservation of endangered species ever enacted by any nation.” *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 180 (1978). It is designed to conserve the ecosystems on which endangered and threatened species depend and to conserve and recover those species so that they no longer require the protections of the Act. 16 U.S.C. § 1531(b). The ESA defines “conservation” as “the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.” *Id.* § 1532(3).

To ensure that the statutory purpose will be carried out, the ESA imposes both substantive and procedural requirements on all federal agencies to carry out programs for the conservation of listed species and to ensure that their actions are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. *Id.* § 1536(a)(2). To accomplish this goal, an agency must consult with FWS or NMFS for *every agency action*—including “all activities or *programs* of any kind authorized, funded, or carried out,” by an agency whenever the agency’s actions “may affect” listed species or critical habitat. *Id.* § 1536(a)(2); 50 C.F.R. § 402.14(a). *See also W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 496 (9th Cir. 2011) (“The minimum threshold for an agency action to trigger consultation” is “low” (quoting 51 Fed. Reg. 19,926, 19,949 (June 3, 1986))). This consultation is required “at the earliest possible time.” 50 C.F.R. § 402.14(a).

The Ninth Circuit has stated that when a federal agency affirmatively authorized, funded, or carried out an activity, and the agency had some discretion to influence or change the activity for the benefit of protected species, this meets the definition of “agency action” under the ESA and is subject to Section 7 consultation requirements. *See Karuk Tribe of Cal. v. USFS*, 681 F.3d 1006, 1021 (9th Cir. 2012) (*en banc*). To that end, the Ninth Circuit has routinely recognized that interim management strategies that set forth criteria that would influence future activities are agency actions subject to Section 7 consultation under the ESA. *See id.* (holding the Forest Service violated the ESA by not consulting before approving notices of intent to conduct mining activities in coho salmon critical habitat); *Lane Cty. Audubon Soc’y v. Jamison*, 958 F.2d 290 (9th Cir. 1992) (holding BLM’s strategy setting forth criteria for selection of land for logging was agency action subject to Section 7 consultation); *Conner v. Burford*, 848 F.2d 1441 (9th Cir. 1988) (required consultation of an oil and gas lease program rather than just consultation at the leasing stage).

Here, just like the interim management strategies of *Karuk*, the MOU authorizes and provides standards for future increase and expansion of grazing on federal lands. For example, the MOU directs the agencies to maximize grazing on vacant allotments, invest in new technologies to lower costs for grazing leases, streamline permit processing, and use emergency

authorities to expedite authorization of livestock grazing. This guidance document is not unlike a forest plan that also serves to shape implementation of future activities and is itself subject to Section 7 consultation. *Pac. River Council v. Thomas*, 30 F.3d 1050 (9th Cir. 1994) (holding “[Land Resource Management Plans] are important programmatic documents that set out guidelines for resource management” subject to ESA consultation).

Even if future actions would themselves be subject to the consultation requirement, consultation at the programmatic level helps fulfill the ESA’s conservation purpose. Such programmatic consultations “allow the [FWS] to consult on the effects of programmatic actions such as ... [a] proposed program, plan, policy, or regulation providing a framework for future proposed actions.” 50 C.F.R. § 402.02. Programmatic consultation allows the FWS to undertake “a broad-scale examination of a program’s potential impacts on a listed species and its designated critical habitat—an examination that is not as readily conducted when the later, action-specific consultation occurs on a subsequent action developed under the program framework.” 80 Fed. Reg. 26,832, 26,836 (May 11, 2015). This enables FWS “to determine whether a program and its set of measures intended to minimize impacts or conserve listed species are adequately protective.” *Id.*

Moreover, section 7(d) of the ESA, 16 U.S.C. § 1536(d), provides that once a federal agency initiates consultation on an action under the ESA, the agency “shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section.” The purpose of Section 7(d) is to maintain the status quo pending the completion of interagency consultation. Section 7(d) prohibitions remain in effect throughout the consultation period and until the federal agency has satisfied its obligations under Section 7(a)(2) to ensure that the action will not result in jeopardy to the species or adverse modification of its critical habitat.

Section 9 of the ESA requires that agencies ensure that the proposed action does not result in the “take” of any listed species. 16 U.S.C. § 1538(a)(1)(B). “Taking” under the ESA “means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” *Id.* § 1532(19). The term “take” is to be defined in the “broadest possible manner to include every conceivable way” in which a person could harm or kill wildlife. *Babbitt v. Sweet Home Chapter of Cmty. for a Great Or.*, 515 U.S. 687, 704 (1995). Moreover, the “take” prohibited by Section 9 need not be the result of purposeful action. *Nat’l Wildlife Fed. v. Burlington N. R.R.*, 23 F.3d 1508, 1509 (9th Cir. 1994) (trains accidentally hitting and thereby taking grizzly bears constitutes an ESA violation).

### III. ESA VIOLATIONS

Pursuant to the ESA, before authorizing increased and expanded grazing, the agencies must initiate and complete formal consultation with the Fish and Wildlife Service and National Marine Fisheries Service on all impacted lands and waterways where listed species may be present or designated critical habitat exists. The action agencies have failed to ensure, through completed consultation with the expert wildlife agencies, that their actions will not jeopardize the continued existence of listed species or destroy or adversely modify critical habitat, in violation of the ESA. 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14(a).

Moreover, the agencies “shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section.” Any such irreversible or irretrievable commitment of resources prior to the completion of consultation violates the ESA. 16 U.S.C. § 1536(d).

If the actions proceed in areas occupied by these listed species, the DOI, BLM, USDA and Forest Service will be in violation of Section 9 of the ESA because these actions are likely to harm, harass, or kill listed species, including but not limited to grizzly bears, gray wolves, Mexican wolves, razorback suckers, Mexican spotted owls, western yellow-billed cuckoos, northern Mexican garter snakes, Snake River Basin steelhead, and bull trout. 16 U.S.C. § 1538(a)(1)(B).

### IV. CONCLUSION

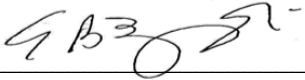
The Center urges the DOI, BLM, USDA, Forest Service, FWS and NMFS to correct these violations. If the agencies do not act within 60 days to correct its violations of the ESA as described in this letter, the Center may pursue litigation in U.S. District Court.

Sincerely,



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