



January 17, 2023

Via Electronic and Certified Mail

Deb Haaland, Secretary of the Interior
U.S. Department of the Interior
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Washington, D.C. 20240
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Martha Williams, Director
U.S. Fish and Wildlife Service
1849 C Street NW, Room 3331
Washington, DC 20240-0001
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RE: Sixty-day Notice of Intent to Sue for Violations of the Endangered Species Act

Dear Secretary Haaland and Director Williams:

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”), by failing to issue 90-day findings on the Center’s petitions to list the yellow-spotted woodland salamander and the Hickory Nut Gorge green salamander. These findings are past the deadline established by the ESA. 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 1.7 million members and online activists dedicated to the protection of endangered species and wild places, including the yellow-spotted woodland salamander and the Hickory Nut Gorge green salamander.

SPECIES BACKGROUND AND THREATS

The **yellow-spotted woodland salamander** (*Plethodon pauleyi*) is named after its unique appearance; its dorsum is marked with two rows of round yellow spots. The yellow-spotted woodland salamander is one of the most endangered salamanders on the planet. Only 65 yellow-spotted salamanders have been observed in the past twenty years. It is a microhabitat specialist, which makes it particularly vulnerable to habitat loss and fragmentation. The salamander only lives in coal country, occurring in West Virginia, Virginia, Kentucky, and Tennessee. Specifically, it occurs on 21 isolated rock outcrops in central Appalachia targeted by industrial mining. Mountaintop removal mining blasts apart these shale and sandstone outcrops to access

coal seams. More than 500 mountains and 1.4 million acres of forests have been destroyed by mountaintop removal mining in Appalachia. Two known *P. pauleyi* occurrences have been wiped out by mining in the past decade, and many others have likely been obliterated over the past 40 years. The yellow-spotted woodland salamander has already lost significant portions of its range to mining, and it will continue to face destruction, modification, and curtailment of its range for the foreseeable future.

Other threats to this species include overutilization, disease, predation, invasive species, pollution across the Appalachian Plateau, and impacts from climate change. Because the yellow-spotted woodland salamander is a higher altitude microhabitat specialist, it is particularly vulnerable to climate change effects on its habitat because it has few alternative options available for migration. Its vulnerability is compounded by its low dispersal. Increased recreational activities in its range, including hiking and rock climbing, are also threatening the salamander.

The **Hickory Nut Gorge green salamander** (*Aneides caryaensis*) is a salamander found only in its namesake gorge in North Carolina. It is a microhabitat specialist confined to an extraordinarily limited range within the Hickory Nut Gorge, approximately 35 km east of Asheville, North Carolina, in parts of Buncombe, Henderson, Polk, and Rutherford counties. The species is one of only two climbing salamander species in the eastern United States, which means its body is adapted to climb trees. The salamander's primary habitat requirements are a dense canopy that traps moisture and regulates temperature, along with available rock outcrops. Habitat loss and fragmentation within the Hickory Nut Gorge is likely the greatest direct threat to the salamander.

Already, development has destroyed one of the only known Hickory Nut Gorge green salamander sites in Polk County. Other threats include deforestation and logging, the loss of hemlock trees, invasive plant species, recreational activities like hiking, rock climbing, and cycling that can degrade or destroy the salamander's habitat, and collection of the Hickory Nut Gorge green salamander.

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 then 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.* § 1533(b)(3)(B)(ii). Within one year of publication 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).

On August 24, 2022, the Service received the Center's petition to list the yellow-spotted woodland salamander as endangered or threatened under the ESA. The Service has yet to issue

either the 90-day finding or 12-month finding in response to the Center's petition, as required by the ESA. Both findings are past due.

On June 13, 2022, the Service received the Center's petition to list the Hickory Nut Gorge green salamander as endangered or threatened under the ESA. The Service has yet to issue either the 90-day finding or 12-month finding in response to the Center's petition, as required by the ESA. Both findings are past due.

The Service has abrogated its duty to ensure that the yellow-spotted woodland salamander and the Hickory Nut Gorge green salamander are 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 these salamanders within the next 60 days, we intend to file suit to enforce the Act. Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,

/s/Camila Cossío

Camila Cossío

Center for Biological Diversity

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