



January 11, 2016

VIA EMAIL AND CERTIFIED MAIL

Sally Jewell
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Daniel M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

Gary Frazer
Assistant Director for Endangered Species
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.C. 20240

RE: Sixty-day notice of violation of section 4(b)(3)(B) of the Endangered Species Act, relating to a late 12-month finding on a petition to list the Virgin River spinedace (*Lepidomeda mollispinis mollispinis*) as a threatened or endangered species

Dear Secretary Jewell:

This letter serves as a sixty-day notice from the Center for Biological Diversity, Noah Greenwald and other interested parties of intent to sue you pursuant to the Endangered Species Act ("ESA") for failing to make a required 12-month finding on a petition to list the Virgin River spinedace (*Lepidomeda mollispinis mollispinis*) as a threatened or endangered species under the Endangered Species Act. 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. *Id.* § 1540(g)(2)(C).

In response to a petition to list a species as threatened or endangered, the ESA requires the Secretary to within 90 days determine whether the petition presents substantial scientific or commercial information indicating that the petitioned


action may be warranted ("90-day finding"), and within 12 months to determine whether listing is warranted, not warranted, or warranted but precluded ("12-month finding"). *Id.* § 1533(b)(3)(A)&(B).

The Center filed a petition seeking Endangered Species Act protection for the spinedace on November 20, 2012. A 12-month finding for the Northern Rockies fisher was due on November 20, 2013. On September 18, 2015, the Service issued a 90-day finding stating listing may be warranted under the Endangered Species Act 80 Fed. Reg. 56423, 56432 (September 18, 2015). The Service, however, has failed to issue a timely 12-month finding. Accordingly, you are in violation of the law and have abrogated your duty to ensure that protection of endangered species occurs in a timely manner thereby avoiding further decline and increased risk of extinction.

The Virgin River Spinedace is a silvery minnow that was once common throughout the Virgin River basin in northwestern Arizona, southeastern Nevada, and southwestern Utah. The spinedace is threatened by widespread habitat loss and degradation, competition and predation from non-native fishes, and other factors. Existing conservation efforts have not succeeded in abating threats to the species, stabilizing populations, or reintroducing self-sustaining populations throughout the majority of its historic range.

If the Secretary does not make the required 12-month finding for the Virgin River spinedace or contact us to develop a timeline for making these findings within the next sixty days, we intend to file suit. Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Greenwald', with a long, sweeping horizontal line extending to the right.

Noah Greenwald
Endangered Species Director
Center for Biological Diversity
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