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Endangered Species Act: Center for Biological Diversity Notice of Intent to Sue to U.S. Fish and Wildlife Service in Regards to Wood Turtle

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The Center for Biological Diversity ("CBD") has sent a December 22nd letter to the United States Fish and Wildlife Service ("Service") alleging:

... violation of Section 4(b)(3) of the ESA, 16 U.S.C. § 1533(b)(3), for failing to make the required 12-month finding on the wood turtle (*Macrochelys temminckii*), one of the 53 amphibians and reptiles included in the Center's July 11, 2012 petition.

CBD states it had previously submitted a petition to list 53 amphibian and reptile species as endangered or threatened under the Endangered Species Act ("ESA").

The wood turtle is stated to be threatened because of habitat loss and other factors and primarily found in the Midwest and northeast United States.

CBD states the Service determined on September 18, 2015 that the wood turtle may warrant protection under the ESA and launched a full status review. 80 Fed. Reg. 56423, 56432.

CBD describes the ESA violation as:

In response to a petition to list a species as threatened or endangered, the ESA requires that the Secretary to "the maximum extent practicable" within 90 days determine "whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted." 16 U.S.C. § 1533(b)(3)(A). The ESA also requires that the Secretary within 12 months determine whether listing is warranted, not warranted, or warranted but precluded. 16 U.S.C. § 1533(b)(3)(B). The Center filed its petition on July 11, 2012, and the turtle received its 90-day finding last fall. But over four years have passed without the FWS making the required 12-month finding on the turtle. Accordingly, FWS is violating Section 4 of the ESA and failing to ensure that protection of endangered species occurs in a timely manner thereby avoiding further decline and increased risk of extinction.

[Click here to download a copy of the December 22nd letter.](#)