

# Snail Darter/Endangered Species Act: Center for Biological Diversity Petition to Delist



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

07/22/2019

The Center for Biological Diversity ("CBD") submitted to the United States Fish and Wildlife Service ("Service") a July 16th Petition to Delist the Snail Darter ("Petition") under the Endangered Species Act ("ESA").

CBD states that the Snail Darter has sustainable populations in diverse locations, therefore justifying a removal from the ESA list of protected species.

The Snail Darter has historical significance. It was the subject of the 1978 United States Supreme Court case *Tennessee Valley Authority v. Hill*.

The United States Supreme Court addressed whether the three-inch long fish, which had been listed as endangered under the ESA, could prevent the completion of the Tellico Dam on the Little Tennessee River. This case was the initial significant judicial test of the strength of the recently enacted ESA.

The Court ruled that despite the economic ramifications of preventing the completion of a partially-finished dam, the protective provisions of the ESA trumped these concerns. The Tellico Dam was later built due to a subsequently acted Congressional exemption. However, pursuant to the ESA, measures were undertaken in other waterbodies to sustain and grow a viable population.

CBD's Petition is filed pursuant to Section 4(b) of the ESA. This submission triggers a requirement that the Service issue an initial finding as to whether the Petition:

... presents substantial scientific or commercial information indicating that the Petition action may be warranted.

The Service is then required to make an initial finding "to the maximum extent practical, within 90 days after receiving the Petition, before initiating the de-listing rulemaking process."

The rationale for CBD's request addresses:

- Description of the Snail Darter
- Range
- Population Status
- Application of Recovery Criteria

Also discussed are potential threats:

- Habitat Loss and Modification
- Overutilization

- Disease and Predation
- Other Factors
- Existing Regulations

A copy of the Petition can be downloaded [here](#).