Rangeland Pesticides Program/Endangered Species Act: Xerces Society for Invertebrate Conservation Notice of Intent to Sue U.S. Department of Agriculture

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The Xerces Society for Invertebrate Conservation and Center for Biological Diversity (collectively "Society") sent a May 24th Endangered Species Act ("ESA") citizen suit notice ("Notice") to the Animal and Plant Health Inspection Service of the United States Department of Agriculture ("USDA") alleging violations of the statute.

The Society alleges that the USDA Animal and Plant Health Inspection Service's Grasshopper Suppression Program (i.e., rangeland pesticides program) violated the ESA by failing to consult with the U.S. Fish and Wildlife Service ("Service").

The USDA is stated to authorize and fund the application of pesticides to public and private lands under the rangeland pesticides program. Many species listed as threatened or endangered under the ESA are stated to occupy habitat, potential habitat, and/or ESA-designated critical habitat in areas that may be affected by this program.

Cited species include:

- Yellow-billed cuckoo
- Black-footed ferret
- Bull trout
- Ute ladies'-tresses
- Spalding's catchfly

The Society alleges that the USDA has violated the ESA by failing to consult with the Service on a programmatic basis and/or failing to reinitiate programmatic consultation with the Service. The alleged failure to consult is in regards to the argued impacts of the rangeland pesticides program on ESA-listed species and their critical habitats.

This program is alleged to be operating despite the absence of an existing programmatic biological opinion or letter of concurrence from the Service covering key aspects of the program. The Society argues that the USDA should have completed a new programmatic consultation with the Service before re-authorizing its rangeland pesticides program in 2019. Further, it argues that a programmatic consultation

with the Service should have been reinitiated due to new species listing and changed circumstances since the last programmatic consultation was completed in 1995.

The Society states that unless the alleged violations are remedied (i.e., completion of programmatic consultation) it intends to file an ESA citizen suit.

A copy of the Notice can be downloaded here.