Crater Lake Newt/Endangered Species Act: Center for Biological Diversity Sixty-day Notice of Intent to Sue U.S. Fish and Wildlife Service for Alleged Violation



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The Center for Biological Diversity ("CBD") has transmitted a sixty-day notice of intent to sue ("Notice") to the United States Fish and Wildlife Service ("Service") for alleged violations of the Endangered Species Act ("ESA").

CBD alleges that the Service has failed to issue a required twelve-month finding on the organization's previous petition to list the Crater Lake newt.

The Notice is being provided to the Service as a requirement of the ESA's citizen suit provision, citing § 1540(g)(2)(C).

The Crater Lake newt is described as a distinct population of the rough-skinned newt whose habitat is limited to the Crater Lake in Oregon. It is stated to be declining rapidly due to expansion of introduced signal crayfish that are preying upon and outcompeting the newt.

2023 surveys are stated to have detected 35 newts and in 2024 only 13 were identified. The newt is also stated to be threatened by warming lake temperatures from climate change, and its vulnerability is compounded by its small population and highly restricted range.

Section 4 of the ESA is noted to require the Service to determine within 90 days whether a 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 determine within 12 months whether the listing is warranted, not warranted, or warranted but precluded by higher-priority actions, citing 16 U.S.C. § 1533(b)(3)(A), (B).

The Service is stated to have determined a previous CBD petition presented substantial information that indicated listing may be warranted for the newt. Therefore, it states that a 12-month finding was due one year after receipt of the petition. Such 12-month finding for the newt is stated to be past due.

The Notice therefore provides that if the Service does not make a required finding or contact the organization and develop a timeline within the next 60 days, it intends to file an ESA citizen suit.

A copy of the Notice can be downloaded here.