



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

Notice of Alleged Violations/Endangered Species Act: Center for Biological Diversity Letter Challenging U.S. Fish and Wildlife Service's Failure to List Venus Flytrap

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The Center for Biological Diversity ("CBD") sent a September 10th letter to the United States Fish and Wildlife ("Service") addressing an Endangered Species Act ("ESA") listing determination involving the Venus flytrap.

CBD alleges that the Service's determination that the Venus flytrap does not warrant listing as a threatened or endangered species violates Section 4 of the ESA.

The CBD Notice of Violations ("Notice") states that the Venus flytrap is one of the most widely recognized plant species on Earth. It is described as the sole member of its genus and the only terrestrial carnivorous plant that uses a snap-capture mechanism to capture its prey. The plant's diet is comprised primarily of ants and spiders.

The Venus flytrap is stated to be endemic to a small area of southeastern North Carolina and northeastern South Carolina. The populations are stated to be located within an approximate 100-mile radius of the port city of Wilmington, North Carolina.

The Notice further states in relevant part:

... The restricted geographic range of the Venus flytrap and the numerous other endemic plants found in this area "reflects the geographic history of the region, which has experienced several bouts of inundation with fluctuating sea levels, accompanied by speciation on isolated upland regions."

The ESA requires the Service to determine whether any species is an endangered species or threatened species based on the consideration of five factors, which include:

- The presence or threatened destruction, modification, or curtailment of its habitat or range;
- Overutilization for commercial, recreational, scientific, or educational purposes;
- Disease or predation;
- The inadequacies of existing regulatory mechanisms; or
- Other natural or manmade factors affecting its continued existence.

If a species meets the definition of endangered or threatened because of any one or a combination of these five factors, the Service must list the species.

A petition is stated to have been filed to list the Venus flytrap under the ESA in 2016. The Service is stated to have published a 90-day finding in 2017 that the petition contained substantial information indicating that listing may be warranted.

The Service determined in 2023 that the Venus flytrap did not warrant listing under the ESA.

The Notice argues that direct habitat destruction is a primary threat to Venus flytrap, including conversion to timber plantations, agriculture, golf courses, and residential areas. Further, the Notice states that the species' highly limited range sits within one of the most rapidly growing areas in the country, resulting in significant and continuing diminishment of remaining flytrap habitat, particularly on private lands. Fire suppression techniques such as bulldozing of fire lines, power line and roadside right-of-way maintenance, and agricultural land conversion (including tree farming) are stated to have historically and continue to further reduce flytrap habitat (noting that the Venus flytrap is highly dependent on frequent fire and begins to die out after only 3-4 years without fire).

The Notice also challenges the Service's conclusion that the listing petition did not provide substantial information in support of its claim that the Venus flytrap is imperiled by climate change and resulting sea level rise.

Arguments put forth in support of the alleged ESA violations include:

- Arbitrary assumption of continued necessary management, including prescribed burning.
- Failure to rationally address or even acknowledge the threat of sea level rise.
- Arbitrary Significant Portion of Range Analysis.

CBD states that if the Service does not remedy these alleged violations within the 60-day notice period it intends to pursue legal action.

A copy of the Notice can be found [here](#).