



Mr. Ken Salazar  
Secretary of the Interior  
U.S. Department of the Interior  
18<sup>th</sup> and C Streets, N.W.  
Washington, D.C. 20240

December 14, 2009

RE: Sixty-day notice of violation of section 4(b)(3)(A, and B) of the Endangered Species Act, relating to late findings for 140 species.

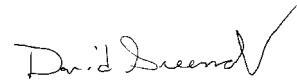
Dear Secretary Salazar,

This letter serves as a sixty-day notice from the Center for Biological Diversity, Noah Greenwald and other interested parties of intent to sue you pursuant to the Endangered Species Act (“ESA”) for failing to make required findings on 24 petitions requesting listing of 96 species as threatened or endangered and for failing to issue a final rule on listing of 48 Kauai species. 16 U.S.C. § 4(b)(3)(A) and (B). This letter is being provided to you pursuant to the 60-day notice requirement of the citizen suit provision of the ESA. 16 U.S.C. § 1540(g)(2)(C).

In response to a petition to list a species as threatened or endangered, the ESA requires the Secretary to within 90 days determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, within 12 months determine whether listing is warranted, not warranted, or warranted but precluded, and within 12 months of a warranted determination, publish a final rule listing the species or withdrawing the warranted finding. 16 U.S.C. § 1533(b)(3)(A) and (B). Findings on the 24 petitions, including 90-day findings on 12 of the petitions and 12-month findings on 12, are anywhere from three months to over eight years late (Table 1). A proposed rule listing 48 species from the island of Kauai, Hawaii was issued on October 21, 2008 (73 FR 62591) and thus a final rule listing these species was due on October 21, 2009. Accordingly, you are in violation of the law and have abrogated your duty to ensure that protection of endangered species occurs in a timely manner thereby avoiding further decline and increased risk of extinction.

If the Secretary does not make the required findings for these species or contact us to develop a timeline for making these findings within the next sixty days, we intend to file suit. Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,

A handwritten signature in black ink that reads "David Greenwald". The signature is written in a cursive style with a large, sweeping flourish at the end.

D. Noah Greenwald  
Endangered Species Program Director  
Center for Biological Diversity  
PO Box 11374  
Portland, OR 97211  
ngreenwald@biologicaldiversity.org

**Table 1.** Petitions for which the U.S. Fish and Wildlife Service has not made required findings included in this notice of intent.

<b>Species</b>	<b>Petitioner</b>	<b>Petition date</b>	<b>90-day finding date</b>	<b>90-finding due</b>	<b>12-month due</b>
California Golden Trout ( <i>Oncorhynchus mykiss aguabonita</i> )	Trout Unlimited	10/16/2000	9/20/2002		10/16/2001
Berry Cave Salamander ( <i>Gyrinophilus gulolineatus</i> )		1/22/2003		4/22/2003	
Ozark chinquapin ( <i>Castanea ozarkensis</i> )		12/31/2003		3/31/2004	
Black-footed albatross ( <i>Phoebastria nigripes</i> )	Center for Biological Diversity et al.	9/30/2004	10/9/2007		10/30/2005
Tucson shovel-nosed snake ( <i>Chionactis occipitalis klauberi</i> )	Center for Biological Diversity et al.	12/15/2004	7/29/2008		12/15/2005
Mohave ground squirrel ( <i>Spermophilus Mohavensis</i> )	Defenders of Wildlife	9/19/2005		12/19/2005	
Mount Charleston blue butterfly ( <i>Icaricia shata charlestonensis</i> )	Urban Wildlands Group	10/20/2005	5/30/2007		10/20/2006
Bay Springs salamander ( <i>Plethodon ainsworthi</i> )	Jeremy Nichols	2/6/2006		5/6/2006	
Tehachapi slender salamander ( <i>Batrachoseps stebbinsi</i> )	Jeremy Nichols	2/28/2006	4/22/2009		2/28/2007
Mojave fringe-toed lizard ( <i>Uma scoparia</i> )	Center for Biological Diversity et al.	8/10/2006	1/10/2008		9/10/2007
cactus ferruginous pygmy owl ( <i>Glaucidium ridgwayi cactorum</i> )	Center for Biological Diversity et al.	3/15/2007	5/30/2008		3/15/2008
Llanero Coqui ( <i>Eleutherodactylus juanariveroi</i> )	Caribbean Primate Research Center	5/22/2007	7/8/2009		5/22/2008
Least chub ( <i>Lotichthys phlegethonti</i> )	Center for Biological Diversity et al.	6/19/2007	10/15/2008		6/19/2008
Dusky tree vole ( <i>Arborimus longicaudus silvicola</i> )	Center for Biological Diversity et al.	6/22/2007	10/27/2008		6/22/2008
Lake Sammamish population of kokanee ( <i>Oncorhynchus nerka</i> )		7/10/2007	5/6/2008		7/10/2008
Amargosa Toad ( <i>Bufo nelsoni</i> )	Wild Fish Conservancy et al.				
32 Pacific Northwest mollusks	Center for Biological Diversity et al.	2/27/2008	9/10/2009		2/27/2009
Oklahoma grasspink ( <i>Calopogon oklahomensis</i> )	Center for Biological Diversity et al.	3/13/2008		6/13/2008	
	Douglas Goldman, Harvard University	5/28/2008		8/28/2008	

Striped newt ( <i>Notophthalmus perstriatus</i> )	Coastal Plains Institute and Land Conservancy Dr. Bruce Means, Ryan Means, Rebecca Means 1313 Milton Street Tallahassee, FL 32303	7/15/2008	10/15/2008
42 Nevada spring snails ( <i>Pyrgulopsis sp.</i> and <i>Tryonia sp.</i> )	Center for Biological Diversity et al.	2/17/2009	5/17/2009
Puerto Rico harlequin Butterfly ( <i>Atlantea tulita</i> )	Javier Biaggi-Caballero, Arecibo, Puerto Rico	2/25/2009	5/25/2009
Gull-billed tern ( <i>Sterna nilotica vanrossemi</i> )	Center for Biological Diversity et al.	6/3/2009	9/3/2009
Plains bison ( <i>Bison bison bison</i> )	James Bailey & Natalie Bailey; Belgrade MT	6/22/2009	9/2/2009
Giant Palouse Earthworm ( <i>Driloleirus americanus</i> )	Center for Biological Diversity et al.	7/2/2009	10/2/2009