

Citizen Suit Action/Endangered Species Act: Center for Biological Diversity Judicial Complaint Alleging U.S. Fish and Wildlife Service Improperly Denied Designation for Bridled Darter



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The Center for Biological Diversity (“CBD”) filed a September 27th Complaint for Declaratory and Injunctive Relief (“Complaint”) in the United States District Court for the District of Columbia against the United States Fish and Wildlife Service (“Service”) alleging a violation of the Endangered Species Act (“ESA”).

The Complaint was filed pursuant to the citizen suit provisions of the ESA and alleged that the Service improperly denied an endangered or threatened listing to the bridled darter.

The bridled darter is described as a rare freshwater fish whose range includes the states of Tennessee and Georgia. Specifically, they are stated to be present in small portions of six rivers and creeks in north Georgia and south Tennessee that feed into the Coosa River.

CBD alleges that the expansion of the urban and suburban areas of Atlanta and Chattanooga and agricultural development into the surrounding areas have encroached on the bridled darter’s habitat and forced them into a smaller area. This is described as a “vastly reduced range” and, therefore, the species is stated to face growing and intensifying threats from:

- Urbanization
- Agriculture
- Climate Change

The Complaint alleges that the Service has predicted that the species’ population will continue to decline and that two of the six bridled darter populations are very likely to be lost in the next 10 years. Further, it is alleged that at least half of the current bridled darter population is likely to be lost by 2017.

CBD petitioned the Service in 2010 to list it under the ESA because of an allegation that best available science indicated the bridled darter was in danger of extinction (i.e., an endangered species under the ESA) or, at a minimum, likely to become endangered in the foreseeable future (a “threatened” species under the ESA).

The Service denied protection for the bridled darter in 2017. See 82 Fed. Reg. 46183.

CBD alleges the Service's decision was arbitrary, capricious, and violated the ESA because it failed to rely on the best available science set forth by the Service's own scientists and outside experts regarding the species. It is alleged to have ignored the proffered timeframe to assess the bridled darter's risk of extinction in the foreseeable future and instead substituted a timeframe with no valid explanation for scientific support. Also, the Service is alleged to have failed to determine whether the bridled darter is endangered or threatened in a significant portion of its range and failed to properly consider whether existing regulatory mechanisms are adequate to protect the species.

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