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Striped Newt/Citizen Suit Enforcement: Center for Biological Diversity Issued Notice of Intent to Sue U.S. Fish and Wildlife Service for Alleged Endangered Species Act Violations

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The Center for Biological Diversity (“CBD”) transmitted a 60-day Notice of Intent To Sue (“NOI”) the U.S. Fish and Wildlife Service (“Service”) for alleged violations of the Endangered Species Act (“ESA”). The alleged violations are stated to include the Service’s ESA failure to list the striped newt as threatened or endangered.

The striped newt is described in the NOI as a rare pond-breeding salamander endemic to northern Florida and southern Georgia. It is stated to have a complex life cycle that requires both xeric upland and wetland habitats. This is stated to render it vulnerable to threats in both environments.

The listed threats include:

- Habitat loss from urban development, silviculture, and agriculture.
- Climate change.
- Fire suppression.
- Disease,
- Road mortality.
- Recreation.

The Service determined that ESA protections were not warranted for the species. See 83 Fed. Reg. 65133 (Dec. 19, 2018). CBD alleges that this determination arbitrarily and capriciously departs:

...from the Service’s prior determination that the species warrants listing as a threatened or endangered species, ignores substantial scientific evidence before the agency showing the species faces extinction, and fails to follow the best available science all in violation of the ESA and administrative procedure act.

CBD argues that other federal laws do not protect the newt in most cases. The organization cites as an example the Clean Water Act. It is noted to regulate wetland filling activities but does not encompass the filling of isolated wetlands used by the newt. Further, CBD argues that while the National Forest Management Act requires each national forest to create a forest plan that integrates conservation of certain imperiled species and existing plans do not take the newt into account.

The alleged violations are stated to include:

1. The Service's Determination that the Striped Newt is Not a Threatened or Endangered Species Violates the ESA and is Arbitrary and Capricious
 1. The Service failed to follow the best available science in violation of the ESA.
 2. The Service's future viability analysis is arbitrary and relies on unproven conservation measures in violation of the ESA.
2. The Service's "Determination of Status Throughout a Significant Portion of its Range" Analysis Violates the ESA and is Arbitrary and Capricious

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