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Railroad Valley Toad/Endangered Species Act: Center for Biological Diversity Notice of Intent to Sue U.S. Fish and Wildlife Service for Failure to List

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The Center for Biological Diversity (“CBD”) sent an October 15th 60-day notice of intent to sue to the United States Fish and Wildlife Service (“Service”) for alleged violations of the Endangered Species Act (“ESA”).

CBD alleges that the Service has violated the ESA by failing to issue a required 12-month finding on the CBD’s petition to list the Railroad Valley toad (“RVT”) as endangered or threatened.

It is described as a small toad found in just one spring-fed wetland complex in Railroad Valley, Nevada. The RVT is stated to have an estimated distribution of 445 acres. Further, it is stated to be isolated from other toads by miles of arid desert.

Threats to the toad are stated to include:

- Oil and gas drilling.
- Development in Railroad Valley.
- A proposed lithium production project.
- Livestock grazing.
- Climate change.
- Stochastic events.
- Mining.
- Non-native species.

Section 4 of the ESA requires the Service to determine within 90 days whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If the Service determines that a finding may be warranted it has 12 months to determine whether the listing is:

- Warranted.
- Not warranted.
- Warranted but precluded by higher-priority actions.

In the event the Service determines listing is warranted, a finding must be published in the Federal Register along with the text of proposed regulation.

The Service is stated to have received CBD's petition to list the RVT on April 12, 2022. It is stated to have found in January of 2024 that the RVT may warrant listing. Therefore, CBD states that a 12-month finding was due one year after receipt of the CBD's petition. The 12-month finding is stated to be past due.

CBD states it intends to file an ESA citizen suit action within the next 60 days if the required finding or designation is not undertaken.

A copy of the notice of intent to sue can be downloaded [here](#).