



PACIFIC LEGAL FOUNDATION

July 9, 2015

Sally Jewell
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Daniel M. Ashe
Director, U.S. Fish & Wildlife Service
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Cindy Dohner
Regional Director, Southeast Region
United States Fish & Wildlife Service
1875 Century Blvd.
Suite 400
Atlanta, GA 30345

Re: 60-Day Notice of Intent To Bring a Citizen Suit Under the Endangered Species Act To Compel 12-Month Finding on Petition To Downlist the West Indian Manatee (*Trichechus manatus*), and Subspecies Thereof

Dear Ms. Jewell, Mr. Ashe, & Ms. Dohner:

Pursuant to Section 11(g) of the Endangered Species Act (ESA), 16 U.S.C. § 1540 (g), this letter provides notice of intent to commence civil litigation for violation of Section (4)(b)(3) of the Act, 16 U.S.C. § 1533(b)(3)(B), governing the reclassification of species. Save Crystal River, Inc., (SCR) intends to file suit after 60 days if the Secretary of the Interior (Secretary) and the Fish & Wildlife Service (Service) continue to violate statutory requirements for responding to a petition to downlist the West Indian manatee and subspecies thereof, including the Florida and Antillean manatees, from endangered to threatened status.

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INTEREST OF PARTY

SCR is a Florida nonprofit corporation. It is organized by citizens of Crystal River, Citrus County, Florida, who wish to protect their individual property rights and enhance the quality of life for citizens of Crystal River and the surrounding area. SCR's mission is to educate the public about current environmental, property, and riparian rights, in order to advance a proper balance between nature and human activity. SCR seeks to represent the interests of the citizens of Crystal River against excessive government regulation of the Crystal River and the resources of the surrounding area.

NATURE OF CHALLENGE

The Service listed the manatee as endangered under the ESA in 1967. 80 Stat. 926; 16 U.S.C. § 668aa. In 1970, the Service revised the listing to include the West Indian manatee (*Trichechus manatus*), thus including both subspecies—the Florida and Antillean manatees. *Id.* at 3; *see* 35 Fed. Reg. 18,319-03. In 2007, the Service completed a Five-Year Review of the West Indian manatee based on the best scientific data available, which recommended that the Service reclassify the West Indian Manatee from endangered to threatened status. *See* West Indian Manatee Five-Year Review at 35_ (*available at* <http://www.fws.gov/northflorida/Manatee/2007%205-yr%20Review/2007-Manatee-5-Year-Review-Final-color-signed.pdf>).

Notwithstanding the recommendation to downlist the manatee, the West Indian manatee and its subspecies are still listed as endangered.

As a result, in December, 2012, the SCR petitioned the Secretary and the Service to downlist the West Indian manatee, including the Florida and Antillean manatees, from endangered to threatened, as recommended in the status review. After the government failed to issue a 90-day finding, SCR filed a 60-day notice and a complaint seeking injunctive relief in 2014. On July 2, 2014, the Service finally issued a 90-day finding, stating that the petition presents substantial scientific or commercial information indicating that the reclassification may be warranted. 79 Fed. Reg. 37,706-01. Under Section 4 of the ESA, the Service then had 12 months to make one of three findings: (1) the petitioned action is not warranted; (2) the petitioned action is warranted; or (3) the petitioned action is warranted, but immediate promulgation of a final regulation is precluded by pending proposals. Although it has been more than 12 months since the Service issued a determination that SCR's petition may be warranted, the Service has still not issued a "12-month finding."

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CONCLUSION

The Service published a 90-day finding that SCR's petition presented substantial information that indicated reclassification of the manatee to "threatened" may be warranted. The law requires the Service to issue a "12-month finding," by July 2, 2015, but the Service has not complied. Therefore, the Secretary and Service are put on notice that if they do not issue a "12-month finding" within the next 60 days, SCR will seek redress in court.

Respectfully submitted,

By:


CHRISTINA M. MARTIN

Attorney

M. REED HOPPER

Principal Attorney

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