



October 14, 2020

Via Email and Certified Mail

Secretary David Bernhardt
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
exsec@ios.doi.gov

Director Aurelia Skipwith
U.S. Fish and Wildlife Service
1849 C Street, NW, Room 3042
Washington, DC 20240
Aurelia_Skipwith@fws.org

Gary Frazer
Assistant Director for Endangered Species
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240
gary_frazer@fws.gov

Re: Notice of Violation of the Endangered Species Act for Failing to Make Required Finding on a Petition to List Giraffes (*Giraffa camelopardalis*)

Dear Secretary Bernhardt, Director Skipwith, and Mr. Frazer,

On behalf of the Center for Biological Diversity, Humane Society International and the Humane Society of the United States, we hereby provide notice, pursuant to Section 11(g) of the Endangered Species Act (ESA),¹ that the U.S. Department of the Interior through the U.S. Fish and Wildlife Service (the Service) is in violation of Section 4(b)(3) of the ESA for failing to make the required 12-month finding on our April 19, 2017 petition to list the giraffe (*Giraffa camelopardalis*) under the ESA.²

The Center for Biological Diversity (the Center) is a nonprofit conservation organization with more than 1.7 million members and supporters dedicated to the protection of imperiled species and wild places. Humane Society International is a nonprofit organization committed to the goals of protecting, conserving, and enhancing wildlife and fostering the humane treatment of all animals around the world. The Humane Society of the United States is a non-profit organization that works on behalf of its members to protect all animals and combat cruelty through litigation, legislation, investigation, education, advocacy, grant-making, emergency rescue missions, field work, and direct care to tens of thousands of animals.

¹ 16 U.S.C. § 1540(g)(2)(A)(i).

² *Id.* § 1533(b)(3).

Giraffes have been undergoing a silent extinction with fewer giraffes now remaining in Africa than elephants.³ Giraffes have suffered a major reduction in population size across their range primarily due to habitat loss, commercial overutilization, and severe poaching, and their decline continues unabated. Our organizations and members are concerned we may forever lose these unique and fascinating animals if ESA protections are not extended to this species. While giraffes are now listed on Appendix II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), that listing only regulates trade, it does not foreclose it. Additionally, as giraffes are listed on CITES Appendix II, the Service is not currently required to make any scientific finding in order for these imperiled animals and their parts to be imported into the United States. Therefore, despite the CITES listing of giraffes, the ESA would afford these majestic animals important protections against extinction.

Accordingly, and as detailed below, we urge the Service to promptly make a 12-month finding for giraffes under the ESA. As the Service concluded in its April 2019 90-day finding,⁴ our petition “presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the giraffe due to” several threats the species is facing.⁵ As such, we hereby provide our notice of intent to sue the Service, if the Service does not take action within the next 60 days.

BACKGROUND

As detailed in our April 2017 petition, currently one species of giraffe (*Giraffa camelopardalis*) is recognized along with nine subspecies.⁶ In classifying the giraffe as vulnerable to extinction in December, 2016, the IUCN Giraffe and Okapi Specialist Group utilized this taxonomy.⁷ Moreover, that review found that giraffes have undergone a 36 to 40 percent population decline over the past 30 years.⁸ Today, roughly 97,500 giraffes (including fewer than 69,000 mature individuals) remain in Africa compared to the over 150,000 giraffes recorded in Africa in 1985.⁹

This species is facing substantial and varying threats across its range. Giraffes have experienced severe habitat loss and fragmentation due to expanding human populations and increased land use activities such as ranching and mining. Giraffes are hunted both

³ The Service has listed African elephants as threatened and found that an endangered listing may be warranted. 81 Fed. Reg. 14,058, 14,062 (March 16, 2016).

⁴ 84 Fed. Reg. 17,768 (April 26, 2019).

⁵ 84 Fed. Reg. at 17,770.

⁶ The nine subspecies are: West African (*Giraffa camelopardalis peralta*); Kordofan (*G. c. antiquorum*); Nubian (*G. c. camelopardalis*); reticulated (*G. c. reticulata*); Rothschild's (*G. c. rothschildi*); Masai (*G. c. tippelskirchi*); Thornicroft's (*G. c. thornicrofti*); Angolan (*G. c. angolensis*); and South African (*G. c. giraffa*). Dagg, A. I. (1971). *Giraffa camelopardalis*. Mammalian Species, (5), 1-8.

⁷ Muller, Z., Bercovitch, F., Fennessy, J., Brown, D., Brand, R., Brown, M., Bolger, D., Carter, K., Deacon, F., Doherty, J., Fennessy, S., Hussein, A.A., Lee, D., Marais, A., Strauss, M., Tutchings, A. & Wube, T. (2016). *Giraffa camelopardalis*. IUCN Red List Threat Species, 2016, 1-8.

⁸ *Id.*

⁹ *Id.*

legally and illegally for sport and for their parts and products. Civil unrest as well as poaching for bushmeat, bones, tail hair, and other parts are also causing giraffe mortality and contributing to their decline. The international trade in giraffe parts and products spurs poaching, legal hunting, and trophy hunting, and a disturbing trend of substituting giraffe bone for ivory in knife and gun handles in the U.S. is emerging.¹⁰ Giraffes are further threatened by the proliferation of disease, inbreeding, depression in isolated populations, collisions with motor vehicles, and the increased frequency and magnitude of droughts associated with climate change. Our petition documents these threats along with declining giraffe populations, which were recognized in the 90-day finding.¹¹ These threats warrant action and the prompt publication of a 12-month finding for giraffes.

Through available Law Enforcement Management Information System (LEMIS) data analyzed in our petition, it is clear that the United States is contributing to giraffe population decline.¹² From 2006-2015, a conservative estimate of imports indicates that the United States imported 21,402 bone carvings, 3,008 skin pieces, and 3,744 hunting trophies.¹³ Of these imports, wild-sourced specimens accounted for 99.7% of specimens in trade (39,397 of 39,516).¹⁴ Moreover, the top exporting countries were: South Africa (31,245 specimens); Zimbabwe (5,249 specimens); Tanzania (692 specimens); and Namibia (685 specimens).¹⁵ All four of these countries took reservations to the Appendix II listing of giraffes.¹⁶ Indeed, of the 21 range countries identified in the Service's 90-day finding,¹⁷ eight (all from southern Africa) took reservations to the CITES' listing of giraffes.¹⁸ Thus, listing giraffes under the ESA would afford giraffes meaningful protections and ensure the United States plays a role in curtailing the threats to these imperiled animals.

ESA VIOLATIONS

On April 19, 2017, we petitioned the Service to list giraffes under the ESA. Over two years later, on April 26, 2019, the Service made a positive 90-day finding that the petitioned action may be warranted.¹⁹ Because we submitted our petition to list the giraffe on April 19, 2017, under the ESA, the Service's 12-month finding was due by April 19,

¹⁰ See, e.g., <http://www.hsi.org/assets/pdfs/giraffe-report-HSI-HSUS-082318.pdf>; https://newsroom.humanesociety.org/fetcher/index.php?searchMerlin=1&searchBrightcove=1&submitd=1&mw=d&q=GiraffeInvestigation0618&credit=web_id892742291.

¹¹ 84 Fed. Reg. at 17,770.

¹² The LEMIS data available to Petitioners end in 2015. While Petitioners have submitted Freedom of Information Act requests for this crucial information at least annually since that time, the U.S. Fish and Wildlife Service has not responded to any of those requests, nor are Petitioners aware of such data being made available to the public by other means.

¹³ Petition to List the Giraffe (*Giraffa camelopardalis*) Under the Endangered Species Act (April 19, 2017) at 27-28.

¹⁴ *Id.* at 28.

¹⁵ *Id.* at 29.

¹⁶ CITES Notification to the Parties No. 2019/077; CITES, Reservations entered by Parties in effect from 26 November 2019 at 4, available at <https://www.cites.org/sites/default/files/notif/E-Notif-2019-077.pdf>.

¹⁷ 84 Fed. Reg. at 17,770.

¹⁸ CITES, Reservations entered by Parties in effect from 26 November 2019 at 4.

¹⁹ 84 Fed. Reg. 17,768.

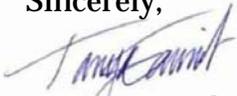
2018.²⁰ The ESA offers no discretion to delay past the one-year mark, yet the Service has failed to issue a 12-month finding to date, and it is now more than two years overdue.²¹ Through this delay, the Service is both denying key conservation measures that would reduce threats confronting giraffes and violating its mandatory duties under the ESA.²² For all these reasons, we seek to compel you to act on our petition.

CONCLUSION

Giraffes are in the midst of a silent extinction, and it is imperative that we recognize the continued decline of these captivating animals and protect them under the ESA. The delay in responding to our petition is contrary to law, especially given the importance Congress has assigned to the protection of endangered and threatened species.

We intend to pursue litigation if the Service does not act to correct the violations described in this letter within 60 days. If you have any questions, or would like to discuss this matter, our contact information is below. Thank you for your attention to this matter.

Sincerely,



Tanya Sanerib
Attorney for Center for Biological
Diversity
tsanerib@biologicaldiversity.org
(206) 379.7363
2400 NW 80th Street, #146
Seattle, WA 98117



Laura Smythe
Attorney for The Humane Society of the
United States
and Humane Society International
lsmythe@humanesociety.org
(202) 676.2331
1255 23rd Street, NW, Suite 450
Washington, DC 20037

²⁰ 16 U.S.C. § 1533(b)(3)(B).

²¹ See *Friends of Animals v. Ashe*, 808 F.3d 900, 903 (D.C. Cir. 2015) (“But even if it is not practicable, the Service *must* make an initial determination within 12 months of receiving the listing petition.” (emphasis in original)).

²² 16 U.S.C. § 1533(b)(3)(B).