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15 **UNITED STATES DISTRICT COURT**  
16 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

17 CENTER FOR BIOLOGICAL )  
18 DIVERSITY, )

19 Plaintiff, )

20 v. )

21 U.S. FISH AND WILDLIFE )  
22 SERVICE; MARTHA WILLIAMS, in )  
23 her official capacity as Principal Deputy )  
24 Director of the U.S. Fish and Wildlife )  
25 Service; and DEB HAALAND, in her )  
26 official capacity as Secretary of the U.S.)  
27 Department of the Interior, )

28 Defendants. )

Case No. 2:21-cv-08660

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

1 **INTRODUCTION**

2 1. Plaintiff Center for Biological Diversity (“Center”) brings this case  
3 challenging the U.S. Fish and Wildlife Service’s (“Service”) failure to determine  
4 whether the Santa Ana speckled dace (*Rhinichthys osculus ssp.*) and the Long  
5 Valley speckled dace (*Rhinichthys osculus ssp.*) warrant protection as endangered  
6 or threatened species, in violation of the Endangered Species Act’s (“ESA” or  
7 “Act”) nondiscretionary, congressionally mandated deadlines. 16 U.S.C. §  
8 1533(b)(3). The agency’s failure delays crucial, lifesaving protections for these  
9 imperiled fish, increasing their risk of extinction.

10 2. The Santa Ana speckled dace is a tiny fish endemic to a handful of  
11 southern California river systems. It is found nowhere else on earth. Due to the  
12 widespread destruction of their native habitat, Santa Ana speckled dace now  
13 occupy only remnants of their historical range and are largely restricted to  
14 headwater tributaries. The Santa Ana speckled dace is at risk of extinction due to  
15 multiple significant threats, including urban development, impacts from dams,  
16 and climate change.

17 3. The Long Valley speckled dace is a tiny fish endemic to the Long  
18 Valley volcanic caldera, east of Mammoth Lakes, in Mono County, California.  
19 Long Valley speckled dace are adapted to spring habitats. They have largely  
20 disappeared from suitable habitats, including Hot Creek, Little Alkali Lake, and  
21 various isolated springs and ponds in Long Valley. The Long Valley speckled  
22 dace is at risk of extinction due to multiple significant threats, including urban  
23 development, impacts from river channelization, and climate change.

24 4. The Center brings this lawsuit for declaratory and injunctive relief,  
25 seeking an Order declaring that the Service is in violation of the ESA by failing to  
26 make required 12-month findings and directing the Service to publish their  
27 overdue 12-month listing determinations for the Santa Ana speckled dace and

28 Long Valley speckled dace by a date certain.

1 **JURISDICTION**

2 5. This Court has jurisdiction over this action pursuant to 16 U.S.C. §  
3 1540(c), (g) (ESA citizen suit provision) and 28 U.S.C. § 1331 (federal question).  
4 This Court has authority to issue declaratory and injunctive relief pursuant to the  
5 ESA, 16 U.S.C. § 1540(g); 28 U.S.C. §§ 2201-2202; and 5 U.S.C. § 706(2).

6 6. Plaintiff provided Defendants with 60-days' notice of the ESA  
7 violation, as required by 16 U.S.C. § 1540(g)(2)(A), by a letter to the Service  
8 dated July 19, 2021 (Santa Ana speckled dace notice) and a letter to the Service  
9 dated July 30, 2021 (Long Valley speckled dace notice). Defendants have not  
10 remedied the violations set out in the notices and an actual controversy exists  
11 between the parties within the meaning of the Declaratory Judgment Act, 28  
12 U.S.C. § 2201.

13 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)  
14 because Defendants reside in this judicial district and a substantial part of the  
15 violations of law by Defendants occurred in this district.

16 **PARTIES**

17 8. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY is a national,  
18 non-profit conservation organization that works through science, law, and policy  
19 to protect imperiled wildlife and their habitat. The Center is incorporated in  
20 California and headquartered in Tucson, Arizona, with offices throughout the  
21 United States, including in Washington, D.C. The Center has more than 81,000  
22 active members throughout the country, including approximately 18,765  
23 members in California, where the historic and remaining habitats of the Santa  
24 Ana and Long Valley speckled dace are found.

25 9. The Center and its members have deep and long-standing interests in  
26 the preservation and recovery of imperiled species, including the Santa Ana and  
27 Long Valley speckled daces and their habitats, and in the full and effective  
28 implementation of the ESA. The Center's members include individuals with

1 scientific, professional, educational, recreational, aesthetic, moral, and spiritual  
2 interests in the Santa Ana and Long Valley speckled daces, and who use the  
3 habitat of these species for a broad range of reasons. Plaintiff's interests in  
4 protecting and recovering these species are directly harmed by the Service's  
5 failure to issue timely 12-month findings on the petitions to list the Santa Ana  
6 speckled dace and the Long Valley speckled dace.

7 10. The Center's members include individuals who regularly visit areas  
8 that are occupied or were formerly occupied by Santa Ana and Long Valley  
9 speckled dace and seek to observe or study these fish in their natural habitat.  
10 Plaintiff's members derive recreational, spiritual, professional, scientific,  
11 educational, and aesthetic benefit from these activities, and intend to continue to  
12 use and enjoy these areas in the future.

13 11. For example, Center member Ileene Anderson, Deserts Director and  
14 Senior Scientist for the Center's Urban Wildlands Program, visits the Santa Ana  
15 speckled dace's habitat for professional projects and spends time in the area for  
16 personal and recreational reasons. She regularly visits the Santa Ana speckled  
17 dace's habitat within the upper Santa Ana River watershed, including the streams  
18 and tributaries of this watershed. Most recently, she looked for Santa Ana  
19 speckled dace at Lytle Creek and the Tujunga Wash stream in Los Angeles. She  
20 enjoys visiting the Angeles and San Bernardino National Forests and looking for  
21 Santa Ana speckled dace in the streams and creeks of these forests.

22 12. Center member Ileene Anderson also cares deeply about the Long  
23 Valley speckled dace and often looks for them in the wild. Most recently, in  
24 October 2021, she was performing field work in the Long Valley area and looked  
25 for the Long Valley speckled dace along the Hot Creek geological site. She was  
26 unable to find any dace, which caused her worry and stress regarding the future of  
27 the species and the impact its extirpation has on her professional goals and

28 projects in the Long Valley area.

1           13. The above-described interests of the Center’s members in these  
2 species and their habitat depends upon their conservation in the wild. Yet, unless  
3 they are promptly listed under the ESA, the Santa Ana and Long Valley speckled  
4 dace will remain unprotected by the Act and may go extinct. Accordingly, the  
5 Center submitted petitions to the Service to extend the substantive protections of  
6 the ESA by listing these species as “endangered” or “threatened.” Defendants’  
7 failure to comply with their nondiscretionary duties under the ESA deprives the  
8 Santa Ana and Long Valley speckled dace of statutory protections that are  
9 necessary for their survival and recovery.

10           14. The Center and its members are injured by Defendants’ failure to  
11 publish timely 12-month findings. Defendants’ failure to act has delayed the  
12 application of the ESA’s protections to the Santa Ana and Long Valley speckled  
13 dace, making the conservation of these species more difficult. These injuries are  
14 actual, concrete injuries that are presently suffered by the Center’s members, are  
15 directly caused by Defendants’ acts and omissions, and will continue unless the  
16 Court grants relief. The relief sought would redress these injuries. The Center and  
17 its members have no adequate remedy at law.

18           15. Defendant U.S. FISH AND WILDLIFE SERVICE is the agency  
19 within the Department of the Interior charged with implementing the ESA for the  
20 species at issue in this suit. The Secretary of the Interior has delegated  
21 administration of the ESA to the Service. 50 C.F.R. § 402.01(b).

22           16. Defendant MARTHA WILLIAMS is the Principal Deputy Director  
23 of the U.S. Fish and Wildlife Service and is charged with ensuring that agency  
24 decisions comply with the ESA. Defendant Williams is sued in her official  
25 capacity.

26           17. Defendant DEB HAALAND is the Secretary of the U.S. Department  
27 of the Interior and has the ultimate responsibility to administer and implement the  
28 provisions of the ESA. Defendant Haaland is sued in her official capacity.

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