



PACIFIC LEGAL FOUNDATION

April 11, 2017

Mr. Ryan Zinke
Secretary of the Interior
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Jim Kurth
Acting Director, U.S. Fish & Wildlife Service
United States Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Ms. 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 Delist the Golden Conure (*Guaruba Guarouba*)

Dear Mr. Zinke, Mr. Kurth, & 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), governing the reclassification of species. The American Federation of Aviculture intends to file suit after 60 days if the Secretary of the Interior and the Fish & Wildlife Service (Service) continue to violate statutory requirements for responding to a petition to delist the golden conure (*Guaruba guarouba*) also known as the golden parakeet (*Aratinga guarouba*).

INTEREST OF PARTY

The American Federation of Aviculture (AFA), a nonprofit national organization incorporated in California, was established in 1974 to represent all aspects of aviculture and to educate the public about keeping and breeding birds in captivity. AFA supports public and private programs that

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support conservation of birds in the wild as well as humane husbandry, care, and breeding of birds. AFA also represents the interests of more than 10,000 members, including bird breeders, pet bird owners, veterinarians, pet store owners, bird product manufacturers, and many other people who are interested in the future of birds and aviculture, and who own and breed the many species of birds in aviculture.

AFA members own and maintain many hundreds of separate species of exotic birds, including golden conures. Many AFA members are experts with long-term, hands-on experience with various species of birds. Aviculturists serve an important role in the preservation of species, and in some cases are the only hope for the long term survival of species at risk for extinction in their native lands.

NATURE OF CHALLENGE

In 1976, the Service listed the golden conure as endangered under the Endangered Species Act. 41 Fed. Reg. 24,062, 24,066. In August, 2014, the AFA filed a petition with the Service to delist the golden conure, or in the alternative, downlist it to threatened. The petition relied partly on research cited by the International Union for Conservation of Nature (IUCN) that shows scholarly estimates of the bird's population have grown from 1,000-2,500 to 10,000-20,000 birds today. It appears the Service has never conducted any statutorily required status review for the bird.

On April 10, 2015, the Service issued a 90-day finding that the AFA's petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the golden conure. 80 Fed. Reg. 19,259, 19,261. 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 pending proposals preclude immediate promulgation of a final regulation. More than 2 years later, the FWS still has not issued a required 12-month finding.

The FWS's failure to act on the petition violates the ESA and is counterproductive to the conservation of the golden conure. Current FWS regulations unnecessarily restrict breeders' ability to breed and sell captive populations of the golden conure across state lines. These restrictions limit the genetic pool available for breeders, and make it more difficult and expensive to breed and sell golden conures to each other and to the public. According to scholarship, one of the reasons why the threat of trapping has dropped is that breeders are successfully meeting market demand. But permit requirements for the captive populations impede that effort.

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Accordingly, existing FWS regulations hurt breeders who are helping protect the wild population of golden conures. The FWS should act on the petition and delist, or exempt breeders from permit requirements.

CONCLUSION

The law required the Service to issue a 12-month finding, by April 10, 2016, but the Service has still not complied. This letter notifies you that AFA will seek redress in court if you do not issue a 12-month finding within the next 60 days.

Respectfully submitted,

By: 
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