

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HUMANE SOCIETY INTERNATIONAL,
1255 23rd Street NW, Suite 450,
Washington, DC 20037,

THE HUMANE SOCIETY OF THE UNITED
STATES,
1255 23rd Street NW, Suite 450,
Washington, DC 20037,

HUMANE SOCIETY LEGISLATIVE FUND,
1255 23rd Street NW, Suite 455,
Washington, DC 20037,

and

CENTER FOR BIOLOGICAL DIVERSITY,
378 North Main Avenue,
Tucson, AZ 85701,

Plaintiffs,

v.

DEB HAALAND, *in her official capacity as
Secretary of the Interior,*
U.S. Department of the Interior,
1849 C Street NW,
Washington, DC 20240,

and

U.S. FISH AND WILDLIFE SERVICE,
1849 C Street NW,
Washington, DC 20240,

Defendants.

Case No. 1:24-cv-2717

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiffs Humane Society International, the Humane Society of the United States, Humane Society Legislative Fund, and the Center for Biological Diversity bring this action under the Endangered Species Act (“ESA”) to challenge the Secretary of the Interior’s and the U.S. Fish and Wildlife Service’s (collectively, “Service”) failure to make a statutorily required 12-month finding on Plaintiffs’ petition to protect the common hippopotamus (*Hippopotamus amphibius*) (hereafter “hippo”) under the ESA (“Petition”).

2. Upon receiving a citizen petition to list a species under the ESA, the Service must make an initial finding, within ninety days, as to whether the petitioned action “*may be warranted*” (a “90-day finding”). Plaintiffs submitted their Petition on March 24, 2022. The Service made a belated 90-day finding on March 21, 2023, determining that the listing of hippos “*may be warranted.*” This triggered a requirement under the ESA that the Service determine whether the listing “*is warranted*” within twelve months of receiving the Petition (a “12-month finding”).

3. The Service still—thirty months later—has not made a 12-month finding on the Petition, despite its own recognition that the Petition “presented information suggesting overutilization from *legal international trade* and [other factors] may be threats to the common hippopotamus and that existing regulatory mechanisms, particularly as they pertain to trade and poaching, may be inadequate to address the impacts of these threats.” 88 Fed. Reg. 16,933, 16,935 (Mar. 21, 2023) (emphasis added).

4. Compliance with the ESA’s twelve-month deadline is necessary to help ensure the continued survival of hippos, a species whose populations have suffered major declines in recent decades.

5. The International Union for Conservation of Nature estimates the global hippo population fell by as much as 20% between 1996 and 2008. And as of 2016, it estimated that as few as 115,000 hippos remained in the wild.



Hippos at sunset in Zambia. Photo by Heidi Osterman.

6. Hippos face myriad threats including habitat loss and fragmentation, legal overutilization for commercial and recreational purposes, illegal hunting and trade, disease, and the inadequacy of current legal and regulatory schemes. These threats put the species at serious risk of extinction. Because the hippo is a keystone species—one that is irreplaceable to the terrestrial and aquatic ecosystems it inhabits—the loss of this species would reverberate through ecosystems.

7. Despite this risk of extinction and its cascading effects, international trade in hippo parts and products is significant, with the United States playing an outsized role. The United States is the top importer of hippo parts and products in the world, consuming 45% of global imports between 2019 and 2021.

8. As a result of the ongoing threats hippos face and the United States' significant role in hippo trade, Plaintiffs petitioned the Service to protect the species under the ESA. More than two years later, the Service has yet to issue the 12-month finding required by the ESA.

9. Plaintiffs therefore seek declaratory and injunctive relief to enforce the mandatory deadline for the Service to make a 12-month finding on the Petition, obtain a date certain by which the Service will issue that finding, award Plaintiffs their fees and costs associated with this lawsuit, and such other relief as may be necessary and proper.

JURISDICTION AND VENUE

10. This action arises under the ESA, 16 U.S.C. §§ 1531-1544. The Court has subject matter jurisdiction over this action pursuant to 16 U.S.C. §§ 1540(c), (g)(1)(C) (action arising under ESA citizen suit provision); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 1346(a)(2) (actions against the United States government).

11. The requested relief is appropriately awarded under the ESA, 16 U.S.C. § 1540(g); the Declaratory Judgments Act, 28 U.S.C. §§ 2201, 2202 (declaratory and injunctive relief); and the Court's equitable powers.

12. As required by the ESA, on March 21, 2024, Plaintiffs provided the Secretary of the Interior and the U.S. Fish and Wildlife Service with sixty-days' written notice of Plaintiffs' intent to file this suit pursuant to the citizen suit provision of the ESA by email and first-class, certified mail. *See* 16 U.S.C. § 1540(g)(2)(C).

13. Defendant Secretary of the Interior, Deb Haaland, received a first-class, certified mail copy of Plaintiffs' notice letter on March 26, 2024.

14. Defendant U.S. Fish and Wildlife Service received a first-class, certified mail copy of Plaintiffs' notice letter directed to Director Martha Williams on March 26, 2024, and a first-

class, certified mail copy of Plaintiffs' notice letter directed to the Branch of Delisting and Foreign Species Chief Rachel London on March 25, 2024.

15. The Service responded to Plaintiffs' notice letter in a letter signed on April 11, 2024. In that letter, the Service declined to immediately make a 12-month finding on the Petition.

16. As of the date of this Complaint, the Service has not remedied its continuing violation of the ESA alleged in Plaintiffs' notice letter. Therefore, an actual controversy exists between the Parties within the meaning of 28 U.S.C. § 2201.

17. Venue is proper in the District of Columbia pursuant to 28 U.S.C. § 1391(e)(1) and 16 U.S.C. § 1540(g)(3)(A), as this civil action is brought against a federal agency and an officer or employee of the United States acting in her official capacity and under the color of law; a substantial part of the events giving rise to Plaintiffs' claim occurred in the District of Columbia; Defendants along with Plaintiffs Humane Society International, the Humane Society of the United States, and Humane Society Legislative Fund are headquartered in the District of Columbia; and no real property is involved in the action.

18. 16 U.S.C. § 1540(g) waives the federal government's sovereign immunity.

PARTIES

Plaintiffs

19. Plaintiff HUMANE SOCIETY INTERNATIONAL ("HSI") is a 501(c)(3) non-profit organization, headquartered in Washington, D.C., with offices and programs around the world, including in Africa. HSI works to protect animals from abuse and exploitation, including wildlife trafficking and trophy hunting, and has expended substantial organizational resources advocating for increased international and domestic legal protections for hippos. For example, as an observer at the Convention on International Trade in Endangered Species of Wild Fauna and

Flora (“CITES”), HSI advocates for additional protections for hippos under the Convention. HSI also actively advocates at the state, federal, foreign, and international levels against unsustainable trade in wildlife parts and products and regularly monitors the import and export of wildlife specimens, including the parts, products, and hunting trophies of hippos and other African wildlife species. Recent undercover investigations by HSI and Plaintiff the Humane Society of the United States documented the prevalence of hippo parts and products available for sale online and in stores in many areas of the United States. HSI was a co-petitioner on the Petition.

20. Plaintiff THE HUMANE SOCIETY OF THE UNITED STATES (“HSUS”) is a 501(c)(3) non-profit organization incorporated in 1954 and headquartered in Washington, D.C. HSUS is the nation’s largest animal protection organization, with millions of members, supporters, and constituents. HSUS’ mission is to fight to end suffering for all animals. In furtherance of this mission, HSUS has demonstrated a particular commitment to the protection of endangered and threatened species. HSUS supports efforts aimed at the protection and recovery of such species, including hippos, and their habitat. HSUS has worked for decades to improve the plight of African wildlife. HSUS regularly submits comments to government agencies concerning proposed actions that would affect wild animals, including listing and delisting decisions under the ESA. HSUS also works to pass legislation at the local, state, and federal levels to protect imperiled species and has engaged in undercover investigations to reveal the extent of trade in products made from hippos and other imperiled species. HSUS was a co-petitioner on the Petition.

21. Plaintiff HUMANE SOCIETY LEGISLATIVE FUND (“HSLF”) is a 501(c)(4) non-profit organization headquartered in Washington, D.C. that operates as a separate affiliate of HSUS. Formed in 2004, HSLF’s mission is to ensure that animals have a voice before federal and state lawmakers by advocating for measures to eliminate animal cruelty and suffering; educating

administrative and elected officials, as well as the public, about animal protection issues; and supporting humane candidates for office. HSLF has a long history of advocating for the protection of domestic and foreign wildlife—including imperiled African species, such as hippos—in Congress and before federal agencies. HSLF was a co-petitioner on the Petition.

22. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (“Center”) is a 501(c)(3) non-profit corporation incorporated in the State of California with headquarters in Tucson, Arizona. The Center maintains offices throughout the United States, including in the District of Columbia, California, Arizona, Oregon, North Carolina, and Washington, and in Baja California Sur, Mexico, as well as other locations. The Center works through science, law, and creative media to secure a future for all species, great or small, hovering on the brink of extinction. The Center’s International Program works to protect global biodiversity by using U.S. and international law to hold governments accountable for threatening imperiled species wherever they are found. In pursuit of this mission, the Center has been actively involved in securing protections for species abroad, including the hippo. The Center has more than 89,000 members and more than 1.7 million online supporters. In addition to the Center’s efforts to protect hippos under the ESA, the Center and its allies advocate for additional protections for hippos under CITES. The Center and its members are dedicated to the conservation of imperiled species, including hippos, and to the effective implementation of the ESA. The ongoing exploitation of hippos for the U.S. market prompted the Center to work to secure additional protections for the species under the ESA, striving to ensure the United States is a leader in conserving this highly imperiled species. The Center was a co-petitioner on the Petition.

23. Plaintiffs’ organizations, members, and supporters include individuals who enjoy observing, photographing, filming, and otherwise appreciating hippos, evidence of their presence,

and their habitat. These individuals derive professional, scientific, educational, recreational, aesthetic, moral, spiritual, and other benefits from hippos, evidence of their presence, and their habitat in the wild. Plaintiffs have members who have visited hippo habitat and have concrete plans to again visit such habitat.

24. For example, HSUS member Heidi Osterman visits Zambia to view wildlife, including hippos, regularly. She visited the country in 2015, 2016, 2019, 2021, and 2022, due in part to her significant volunteer work for a philanthropic conservation organization that leads wildlife viewing safaris in South Luangwa National Park and provides conservation education to the public. Ms. Osterman has seen hippos during these visits, deriving great personal fulfillment and aesthetic enjoyment in viewing and photographing the animals in their natural habitat—whether by boat or on foot—and especially at sundown, when hippos are very active. Ms. Osterman also enjoys observing evidence of the important role hippos play in their ecosystem, such as hippo highways: pathways hippos create in moving from water onto land that keep waterways open and allow fresh water to enter. She also enjoys observing hippos' unique behaviors, such as their territorial and dominance behaviors and their tendency to cover themselves in “garlands” of greenery. Ms. Osterman has concrete plans to return to South Luangwa National Park and surrounding areas in Zambia and hopes to continue to view hippos on her upcoming trips. She has already booked a wildlife viewing safari in the park in November 2024. She plans to return to the park and surrounding areas again at least once in 2025 and may visit as many as three times that year. In the future, Ms. Osterman also expects to travel to Botswana to visit a friend who co-owns a safari lodge on the Okavango Delta, and she hopes to also view hippos there.

25. By way of another example, Center member Brett Hartl has traveled to Africa to view wildlife, including hippos, regularly since his first visit to Tanzania in 2010. Since then, he

has visited South Africa, Namibia, and Botswana in 2015; Ghana in 2017; Uganda in 2018; Kenya and the Central African Republic in 2019; South Africa in 2021; and Tanzania in spring 2024. During all these trips, looking for, observing, and photographing hippos in their habitat has brought Mr. Hartl great aesthetic enjoyment. He is returning to Africa with a visit to Zambia planned for 2027, and another trip planned from June to September of 2028 that currently includes Angola, Gabon, Malawi, Senegal, The Gambia, South Africa, Zimbabwe, Mozambique, and Rwanda, as well as other locations. Mr. Hartl also has a potential trip to Tanzania planned for 2026. During his upcoming trips, he will continue deriving aesthetic enjoyment from looking for, observing, and photographing hippos in their habitat.

26. An integral aspect of Plaintiffs' members' use and enjoyment of hippos is the expectation and knowledge that these animals persist in their native habitat. For this reason, Plaintiffs' members' use and enjoyment of hippos are entirely dependent on the continued existence of healthy, sustainable populations of the species in the wild. As hippos decline in number or their populations become more fragmented, Plaintiffs' members will be less likely to be able to view and enjoy hippos or evidence of their presence on their regular trips to hippo habitat, injuring members' interests in the species.

27. The Service's failure to comply with the ESA's mandatory deadline for issuing a 12-month finding deprives hippos of statutory protections necessary to their survival and recovery. Until the species is adequately protected under the ESA, Plaintiffs' and their members' interests in hippo conservation and recovery are impaired. Therefore, Plaintiffs' and their members' interests in hippos are directly, adversely, and irreparably injured by the Service's failure to make a timely determination as to whether Plaintiffs' petitioned action—to protect hippos under the ESA—is warranted. Plaintiffs and their members are also injured by the ongoing harm to hippos,

including ongoing and substantial demand for hippo specimens in the U.S. market, in the absence of these ESA protections. These injuries will continue to occur unless and until this Court provides the relief requested in this Complaint.

28. The relief sought in this Complaint would redress Plaintiffs' and their members' injuries because it would compel the Service to make a 12-month finding on Plaintiffs' Petition, which could ultimately provide hippos with important federal protections and benefits. The ESA generally bans the import, export, and sale of endangered species in interstate and foreign commerce, 16 U.S.C. § 1538(a), and requires the Service to issue regulations deemed "necessary and advisable" for the conservation of threatened species, *id.* § 1533(d). The ESA also provides for "[i]nternational cooperation" in the conservation of foreign species. *Id.* § 1537. ESA listing increases awareness of listed species and the threats they face; stimulates research efforts to address conservation needs; and increases funding for conservation of species in their range countries, including habitat conservation. Under the ESA, the Service provides financial assistance for programs to conserve listed species in foreign countries; encourages conservation programs for such species; and offers other related assistance, such as personnel and training.

29. In sum, Plaintiffs and their members are injured by the Service's failure to make a timely 12-month finding. The Service's protracted failure to act prevents the application of the ESA's substantive protections that are vitally important to hippo survival and eventual recovery. These are actual, concrete injuries from which Plaintiffs and their members presently suffer; are directly caused by the Service's acts and omissions; and will continue to occur unless the Court grants relief. The relief sought herein would redress these injuries. Plaintiffs and their members have no other adequate remedy at law.

Defendants

30. Defendant DEB HAALAND is the Secretary of the Interior and is the federal official with final responsibility for making decisions and promulgating regulations required by and in accordance with the ESA, including listing decisions. Secretary Haaland is sued in her official capacity.

31. Defendant UNITED STATES FISH AND WILDLIFE SERVICE is the agency within the Department of the Interior that is charged with implementing the ESA, as well as ensuring prompt compliance with the ESA's mandatory listing deadlines. This authority encompasses proposed and final listing decisions for the hippo.

LEGAL BACKGROUND

Endangered Species Act

32. The Endangered Species Act ("ESA" or "Act"), 16 U.S.C. §§ 1531-1544, provides comprehensive protections for both domestic and foreign endangered and threatened species.

33. In passing the Act, Congress found that different species "have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation" and that "other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction." 16 U.S.C. § 1531(a)(1)-(2). Accordingly, the purpose of the ESA is to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered species and threatened species." *Id.* § 1531(b).

34. To this end, section 4 of the ESA requires the Secretary of the Interior to protect imperiled species by listing them as either "endangered" or "threatened." 16 U.S.C. § 1533(a). The

Secretary of the Interior has delegated her administration of the ESA to the U.S. Fish and Wildlife Service. 50 C.F.R. § 402.01(b).

35. An “endangered species” is any species that “is in danger of extinction throughout all or a significant portion of its range.” 16 U.S.C. § 1532(6). A “threatened species” is any species that “is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” *Id.* § 1532(20).

36. The Service must list a species under the ESA if the species is endangered or threatened due to: “(A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.” 16 U.S.C. § 1533(a)(1).

37. The Service must make listing determinations “solely on the basis of the best available scientific and commercial information regarding a species’ status.” 50 C.F.R. § 424.11(b); 16 U.S.C. § 1533(b)(1)(A).

38. The ESA’s conservation measures only apply to a species once that species is listed under the Act.

39. Endangered species are automatically protected under section 9 of the ESA, which includes a prohibition on the import, export, and interstate commerce in endangered species or attempts to engage therein, 16 U.S.C. §§ 1538(a)(1)(A), (F), unless such activity is “for scientific purposes or to enhance the propagation or survival of the affected species,” *id.* § 1539(a)(1)(A).

40. Under section 4(d) of the ESA, the Service must issue regulations to conserve threatened species and may extend the statutory protections afforded to endangered species by section 9 to threatened species. 16 U.S.C. § 1533(d).

41. The ESA further provides for “[i]nternational cooperation” in the conservation of foreign species. 16 U.S.C. § 1537. According to the Service, the listing of foreign species also provides “conservation benefits such as increased awareness of listed species, research efforts to address conservation needs, or funding for in-situ conservation of the species in its range countries.” The Service further explains that the ESA provides financial assistance “to develop and manage programs to conserve listed species in foreign countries, encourages conservation programs for such species, and allows for assistance for programs, such as personnel and training.”

42. To ensure the timely protection of at-risk species, Congress set forth a detailed process whereby citizens may petition the Service to list a species as endangered or threatened and set deadlines for the Service to respond to such petitions. 16 U.S.C. § 1533(b)(3); *see also* 50 C.F.R. § 424.14.

43. Upon receipt of a listing petition, the Service must “[t]o the maximum extent practicable, within 90 days” make an initial finding as to whether the petition “presents substantial scientific or commercial information indicating that the petitioned action may be warranted.” 16 U.S.C. § 1533(b)(3)(A); 50 C.F.R. § 424.14(h)(1). This is called the “90-day finding.”

44. If the Service finds that the petition does not present substantial information indicating that listing may be warranted, the agency must publish that finding, rejecting the petition and ending the process. 16 U.S.C. § 1533(b)(3)(A); 50 C.F.R. § 424.14(h)(1).

45. If, alternatively, the Service determines that the petition presents substantial information indicating that listing may be warranted, the agency must publish that finding and proceed to conduct a full scientific review of the species’ status. 16 U.S.C. § 1533(b)(3)(A); 50 C.F.R. § 424.14(h).

46. Upon completion of this scientific review, and within twelve months of the date it received the petition, the Service must make a finding that: (1) listing is “warranted”; (2) listing is “not warranted”; or (3) listing is “warranted, but . . . precluded” by other pending proposals for listing species, provided certain requirements are met. 16 U.S.C. § 1533(b)(3)(B); 50 C.F.R. § 424.14(h)(2). This is called the “12-month finding.”

47. If the Service’s 12-month finding concludes that listing is warranted, the agency must “promptly publish” notice of the proposed regulation to list the species as endangered or threatened in the Federal Register for public comment. 16 U.S.C. § 1533(b)(3)(B)(ii); 50 C.F.R. § 424.14(h)(2)(ii).

48. Within one year of publication of the proposed regulation, the ESA requires the Service to render its final determination on the proposal. 16 U.S.C. § 1533(b)(6). This is known as a “final listing determination.” At such time, the Service must either list the species, withdraw the proposed listing rule, or, if there is substantial disagreement about scientific data, delay a final determination for up to six months to solicit additional scientific information. *Id.* §§ 1533(b)(6)(A)(i), (B)(i).

49. Because hippos are not currently listed under the ESA, they receive none of the Act’s protections.

Convention on International Trade in Endangered Species

50. While hippos are not listed under the ESA, they have been listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) since 1994.

51. CITES is an international treaty governing trade in imperiled species of wildlife and plants. CITES, Mar. 3, 1973, 27 U.S.T. 1087. CITES recognizes that “wild fauna and flora in

their many beautiful and varied forms are an irreplaceable part of the natural systems” and that “international co-operation is essential for the protection of [these] species . . . against over-exploitation through international trade.” *Id.*, Preamble.

52. To receive protection under CITES, species must be included on one of the three CITES Appendices, and each Appendix provides listed species varying degrees of protection.

53. Species on Appendix I of CITES are “threatened with extinction,” CITES, art. II, ¶ 1, and are afforded the highest level of protections. CITES strictly bans all commercial international trade in Appendix I species, although non-commercial trade in scientific, zoological, and other specimens may still occur with proper permitting. CITES, art. III, ¶¶ 1-3.

54. Appendix II species are “not necessarily now threatened with extinction [but] may become so unless trade . . . is subject to strict regulation in order to avoid utilization incompatible with their survival.” CITES, art. II, ¶ 2. Species may also be listed under Appendix II if their regulation is key to the protection of other imperiled species, such as if the species is difficult to distinguish from other CITES-listed species. *Id.*

55. International commercial trade in Appendix II species is permitted if the exporting nation issues a valid CITES export permit. CITES, art. IV. To issue a valid export permit, the exporting nation’s designated CITES Scientific Authority must find the export “will not be detrimental to the survival of th[e] species” and the exporting nation’s CITES Management Authority must be “satisfied that the specimen was not obtained in contravention of the laws of th[e] State for the protection of fauna and flora.” CITES, art. IV, ¶ 2(a), (b).

56. While international trade in *Appendix I* species additionally requires the importing nation to issue a valid CITES import permit, including a finding by the importing nation’s designated CITES Scientific Authority that the import “will be for purposes which are not

detrimental to the survival of the species,” international trade in *Appendix II* species does not require any CITES import permit or finding by an importing nation. *Compare* CITES, art. III, ¶ 3, *with* CITES, art. IV.

57. In the United States, CITES is implemented by the Service pursuant to the ESA and the Service’s CITES regulations. 16 U.S.C. §§ 1537a, 1538(c); 50 C.F.R. §§ 23.1-23.92.

FACTUAL BACKGROUND

58. The common hippopotamus (*Hippopotamus amphibius*) is one of the world’s most recognizable species. Hippos’ barrel-shaped bodies, large teeth, massive jaws, and ability to open their mouths almost 180 degrees have captivated the human imagination for centuries.

59. The species has evolved for a semi-aquatic lifestyle, using both freshwater and terrestrial habitats. Several processes essential to hippos’ lives and continued existence—including thermoregulation, skin health, and reproduction—rely on the availability of suitable aquatic habitat.



Hippos in Uganda. Photo by Brett Hartl.

60. These large herbivores are ecological engineers and keystone species, meaning they are irreplaceable to the terrestrial and aquatic ecosystems they inhabit. Hippos' contributions to their ecosystems include flood mitigation, ecosystem connectivity, nutrient dynamics, vegetation structure, and maintenance of biodiversity.

61. Despite being an iconic and ecologically vital species, scientific research on hippos has been limited. Little is known about their behavior, ecology, or regional population sizes.

62. The International Union for Conservation of Nature ("IUCN") classifies hippos as "vulnerable," meaning the species faces a high risk of extinction in the wild. IUCN determined the global hippo population fell by up to 20% between 1996 and 2008. In 2016, IUCN found hippo populations were decreasing in more than half of the twenty-nine hippo range states where population trends are known. And, as of 2016, IUCN estimated that as few as 115,000 wild hippos remained in Africa.

63. There are numerous threats to hippos' survival. While hippos are still present in some of their historical range in sub-Saharan Africa, their geographical range has shrunk substantially.

64. The species has experienced severe habitat loss and fragmentation due to human activities, including diversion of water for human use, conversion of hippo grazing areas to agricultural use or for human settlements, construction of dams, fishing operations, and mining operations. The detrimental impacts of these habitat alterations are exacerbated by climate and environmental changes, including water scarcity and drought. Human retaliatory killing of hippos, a key contributor to population decline in some regions, is also expected to become more prevalent due to these threats.

65. In addition, hippos are hunted legally for trophies along with their parts, particularly ivory. They are also hunted illegally for bushmeat, ivory, and assorted parts for use for traditional and perceived medicinal purposes.

66. There is significant trade in hippo parts and products made from hippo parts. CITES global trade data shows more than 75,000 wild-sourced hippo specimens traded internationally for commercial, personal, or hunting purposes between 2009 and 2018. This equates to a conservative estimate of at least 13,496 hippos killed for trade during this period. More recent CITES data from 2019 to 2021 continues to show a high level of trade, with more than 6,000 specimens traded during that period.¹

67. The United States is the single largest global importer of hippo parts and products. Between 2009 and 2018, the United States was responsible for 34% of such imports. More recently, between 2019 and 2021, the United States imported 45% of the global total of hippo parts and products.

68. Plaintiffs HSI and HSUS conducted undercover investigations between 2018 and 2022 that reveal a thriving market of hippo parts and products for sale in brick-and-mortar stores in the United States. Products made from hippo leather, such as belts, shoes, and purses, and items made from hippo ivory, such as carvings and handles on knives and bottle openers, were among the items found for sale. Plaintiffs' research has also documented hundreds of hippo products for sale online, with raw ivory pieces and leather products being particularly prevalent.

¹ The data in Paragraphs 66 and 67 refers to unweighted imports of hippo specimens. For such unweighted imports, the unit used in the CITES trade database equals the number of specimens imported, rather than the weight of the specimens imported.



Hippo leather boots documented for sale in Dallas, Texas during an HSI and HSUS undercover investigation.

69. Hippos are further threatened by civil unrest and the failure of range states to enforce the limited domestic legal protections that exist for the species.

70. Further, international law offers little protection for Africa's hippo populations. The hippo is not listed on either of the Appendices in the Convention on Migratory Species.

71. Moreover, despite the listing of hippos on CITES Appendix III in 1975 and Appendix II in 1994, the conservation status of the species continues to deteriorate. And, at the 2022 CITES Conference of the Parties, member states failed to adopt a proposed revision to hippos' Appendix II listing that would have prohibited exports of wild specimens for commercial purposes.

72. Given these and other threats to hippos' survival, Plaintiffs submitted their Petition on March 24, 2022, asking the Service to protect the species as endangered, or alternatively as threatened, under the ESA.²

73. The ESA listing Plaintiffs requested would afford greater protection to the species. Because hippos' CITES Appendix II listing requires only the exporting country to issue a CITES

² The Petition requested that, if the Service lists the species as threatened, all the prohibitions of section 9 be extended to the species under the Service's section 4(d) authority.

permit, the Service is not currently required to make any scientific finding before allowing these imperiled animals and their parts to be imported into the United States or traded domestically. Further, CITES' standards for trade are less stringent than those of the ESA. Trade is permitted under CITES if the exporting country finds the trade is not *detrimental* to the survival of the species. In contrast, ESA section 9's prohibition on import, export, and interstate sale would benefit hippos by curtailing all trade unless the Service determines such trade is "for scientific purposes or to *enhance* the propagation or survival of the affected species." 16 U.S.C. § 1539(a)(1)(A) (emphasis added).

74. Despite the threats hippos face, the Service has failed to comply with the ESA's mandatory deadlines. The Service did not make a 90-day finding on the Petition within ninety days of its submission. As a result, Plaintiffs sent the Service notice of their intent to sue over that missed deadline.

75. After receiving Plaintiffs' notice letter, the Service belatedly made its 90-day finding on March 21, 2023—nearly a year after Plaintiffs submitted their Petition. The Service determined that listing "may be warranted due to potential threats associated with habitat loss and degradation due to land conversion and urbanization, demand for irrigation and water, climate change, and war (Factor A)." 88 Fed. Reg. 16,933, 16,935 (Mar. 21, 2023). The Service further explained that the Petition "also presented information suggesting overutilization from legal international trade and poaching (Factor B), disease and predation (Factor C), and traditional and medicinal use of hippopotamus parts (Factor E) may be threats to the common hippopotamus and that existing regulatory mechanisms, particularly as they pertain to trade and poaching, may be inadequate to address the impacts of these threats (Factor D)." *Id.*

76. Even though the Service determined that ESA listing of hippos may be warranted and acknowledged the potential threats the species faces, the agency continues to evade its legal obligations. More than two years after receiving Plaintiffs' Petition, the Service has yet to make the requisite 12-month finding.

77. The Service has issued a series of workplans, setting non-binding timelines in which it intends to take listing actions for foreign species by fiscal year, including publishing 12-month findings and proposed listing rules.

78. The Service regularly delays the non-binding timelines it sets for itself in these workplans.

79. The Service first published its foreign species workplan in 2020. In the fall of 2021, the Service issued a revised foreign species workplan that, among other things, pushed back the Service's timelines for completing listing actions for multiple foreign species. Then, in June 2023, the Service issued its current workplan, in which it yet again delayed many of its own timelines for completing crucial listing actions. The Service's pattern of missing or altering many of the non-binding timelines in its workplans demonstrates how unreliable these timelines are, as well as the Service's willingness to continue to delay taking required action under the ESA.

80. Under the Service's 2023 workplan for foreign species, hippos will not receive a 12-month finding until Fiscal Year 2028: six years after Plaintiffs' Petition and half a decade after the ESA's mandatory deadline for the finding.

81. In the past, the Service undertook foreign species listing actions at a significantly faster pace. The agency's average annual rate of taking these actions is dramatically slower than its pace twelve to fifteen years ago. This is despite no significant budgetary changes.

82. Given the Service's demonstrated ability to take foreign species listing actions at a faster pace, it is practicable for the Service to make the requisite 12-month finding on Plaintiffs' Petition well before Fiscal Year 2028.

CLAIM FOR RELIEF

Violation of the Endangered Species Act (16 U.S.C. § 1533(b)(3)(B)) Failure to Make a 12-Month Finding for the Common Hippopotamus

83. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs in this Complaint as though fully set forth below.

84. Defendants' protracted and ongoing failure to make the statutorily required 12-month finding on Plaintiffs' petition to list the common hippopotamus under the Endangered Species Act violates the Act, 16 U.S.C. § 1533(b)(3)(B), and its implementing regulations, 50 C.F.R. § 424.14(h)(2).

85. Plaintiffs and their members are injured by the Defendants' continued failure to issue the required 12-month finding, and their injuries would be redressed if this Court grants Plaintiffs' requested relief.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request this Court:

A. Declare that Defendants have violated and continue to violate the ESA by failing to issue a timely 12-month finding on Plaintiffs' petition to list the common hippopotamus under the ESA, 16 U.S.C. § 1533(b)(3)(B);

B. Order Defendants to issue, by a date certain, a 12-month finding on Plaintiffs' petition to list the common hippopotamus under the ESA, 16 U.S.C. § 1533(b)(3)(B);

C. Award Plaintiffs their fees and related costs;

D. Retain continuing jurisdiction to review Defendants' compliance with all judgments and orders herein; and

E. Grant Plaintiffs such other relief as the Court deems just and proper.

Dated: September 24, 2024

/s/ Margaret Robinson
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