



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:

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OCT 22 2004

Ms. Nicole Rosmarino
Endangered Species Director
Forest Guardians
312 Montezuma, Suite A
Santa Fe, New Mexico 87501

Dear Ms. Rosmarino:

This correspondence is in response to your 60-day notice of intent to sue the U.S. Fish and Wildlife Service under the Endangered Species Act (ESA) dated August 12, 2004, concerning the not warranted black-tailed prairie dog resubmitted petition finding. Your correspondence states that our "not warranted" determination is "arbitrary and capricious, not in accordance with law, and not based on the best available science." Since the Federal Register Notice regarding our finding was not published until August 18, 2004, we are uncertain what your conclusions were based upon. We believe that if you take the time to carefully review the Federal Register Notice, you will understand the basis for our finding.

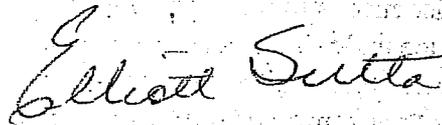
We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species and determined that the petitioned action to list the black-tailed prairie dog under the provisions of the ESA is not warranted. State agencies now estimate there are approximately 1,842,000 acres of occupied habitat across 10 western States. Since the publication of our 12-month finding in 2000, all States within the current range of the species, with the exception of Montana, have completed Statewide surveys based on occupied habitat. These efforts were systematically designed and implemented, although methodologies varied between States. We believe that the current Statewide estimates are more accurate than those provided in the 2000 12-month finding, which were largely based on earlier data, extrapolation of partial surveys, telephone surveys, and desktop exercises. Collectively, the recent estimates represent the first systematically designed broad benchmark of black-tailed prairie dog populations since the early 1960s. This estimate of the occupied habitat of black-tailed prairie dogs played a substantial role in our August 18, 2004, decision.

Previously, we focused attention on a few large black-tailed prairie dog populations impacted by plague and extrapolated population losses at these sites across the species' entire range. Based on updated distribution, abundance, and trends data, it appears that these extrapolations were not correct. Dramatic fluctuations in the amount of black-tailed prairie dog occupied habitat at specific large complexes may occur due to plague epizootics or chemical control, but they do not appear to influence range-wide species persistence.

The magnitude and immediacy of the threat must be viewed pursuant to the definitions of the ESA. To be considered a threat, a factor should be shown to play such a significant role in the population dynamics of the species that it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of the range. None of the five listing factors as described in section 4(a) of the ESA and further described at 50 CFR 424.11 rise to this level of threat. Thus, the species does not meet the ESA's definition of a threatened species.

We will continue to monitor the status of the species, and to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding. We will reconsider this determination in the event that new information indicates that the threats to the species are of a considerably greater magnitude or imminence than identified in our August 18, 2004, finding.

Sincerely,



ACTING

Regional Director

cc: Jeff Kessler
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