

Working to Protect Native Species and Their Habitats

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U.S. FISH & WILDLIFE SERVICE

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**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

July 15, 2003

Gail Norton  
Secretary of the Interior  
1849 C Street, NW  
Washington, DC 20240

**Re: Sixty-Day Notice of Intent to Sue for Violation of Section (4)(b)(3)(A) of the Endangered Species Act With Respect to the Petition to List the Black Hills Distinct Vertebrate Population Segment of American Dipper (*Cinclus mexicanus unicolor*) and to Designate Critical Habitat**

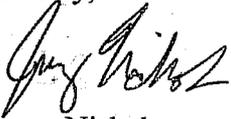
Dear Secretary Norton:

Pursuant to the citizen suit provision of the Endangered Species Act ("ESA"), 16 U.S.C. § 1540(g)(2), Biodiversity Conservation Alliance, Center for Native Ecosystems, Native Ecosystems Council, Prairie Hills Audubon Society of Western South Dakota, and Jeremy Nichols hereby give notice of intent to file suit after 60 days for your failure to respond to the petition to list the Black Hills distinct vertebrate population segment of American dipper (*Cinclus mexicanus unicolor*) as a threatened or endangered species. Section 4 (b)(3)(A) of the ESA requires the Secretary of the Interior, to the maximum extent practicable, within 90 days after receiving a petition, to make an initial finding as to whether the petition presents substantial information indicating that the petitioned action may be warranted. 16 U.S.C. § 1533 (b)(3)(A).

On March 15, 2003, the above-mentioned organizations submitted a formal petition to list the Black Hills distinct vertebrate population segment of American dipper as a threatened or endangered species. Certified mail receipts indicate that the Secretary of the Interior received this petition on March 28, 2003. Accordingly, the 90-day finding was due on or about June 26, 2003.

We are providing this letter to you pursuant to the 60-day notice requirement of the citizen suit provision of the ESA. 16 U.S.C. § 1540(g)(2)(C). You have not made the required 90-day finding on the petition to list the Black Hills distinct vertebrate population segment of American dipper, and thus are in violation of a mandatory duty under the ESA. If you do not make the required finding on the Black Hills distinct vertebrate population segment of American dipper within the next sixty days, we intend to file suit in order to compel you to do so. If you have any intention of making the required 90-day finding within the next few months please inform us immediately. Please feel free to contact the undersigned at the phone and address listed below and on this letterhead to discuss this matter if you have reasonable plans to comply with the law or believe any of the above information is incorrect.

Sincerely,



Jeremy Nichols  
Biodiversity Conservation Alliance  
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(307) 742-7978  
jeremy@voiceforthewild.org

cc: Neil Levine, Earthjustice  
Jacob Smith, Center for Native Ecosystems  
Brian Brademeyer, Native Ecosystems Council  
Nancy Hilding, Prairie Hills Audubon Society of Western South Dakota  
Steven Williams, Director, U.S. Fish and Wildlife Service  
Ralph Morgenweck, Regional Director, Mountain-Prairie Region, U.S. Fish and Wildlife Service  
Pete Gober, Field Supervisor, South Dakota Field Office, U.S. Fish and Wildlife Service