



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



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MAR 21 2005

Dr. Lauren McCain
Desert and Grasslands Program Coordinator
Forest Guardians
1452 Hudson Street
Denver, Colorado 80220

Dear Dr. McCain:

We received your 60-day Notice of Intent to Sue under the Endangered Species Act dated December 9, 2004, regarding the swift fox. We believe that some of your statements are in error and would like to respond to your concerns and allegations.

First, available information regarding distribution, abundance, and trends indicates that swift fox populations stabilized or increased rangewide over the past several decades, and continued to improve after the species was removed from the candidate list 4 years ago. The Swift Fox Conservation Team continues its efforts to study and conserve the species. Two new reintroduction efforts are underway (Bad River Ranch, South Dakota and Badlands National Park, South Dakota), in addition to previous efforts in Canada and Montana. Other sites are under consideration for future reintroductions.

Second, you allege that we did not use the best available science, violated peer review policy, and illegally considered future conservation actions. We believe we used the best available information to arrive at our decision to remove the swift fox from the candidate list. Sixty-five references, including the five annual reports of the Swift Fox Conservation Team (1995-2000) and the Team's Swift Fox Conservation Assessment and Conservation Strategy, were cited in our decision. Although ongoing and future conservation actions were acknowledged, proposed future actions were not a factor in our decision. Regarding your comment that our determination "violates interagency peer review guidelines," the guidelines you mention clarify policy regarding independent peer review in listing and recovery activities. This peer review policy applies to rulemakings such as the listing of species as threatened or endangered or the development of recovery plans for listed species. Removal of a species from the candidate list does not require independent peer review.

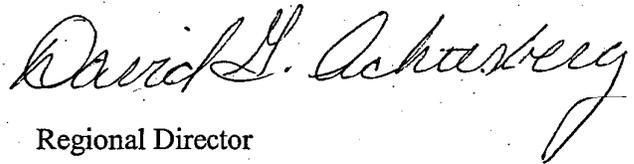
Third, you allege that we did not properly consider the significant portion of the swift fox's range, and that the species is imperiled in the Northern Plains. In our 2000 Candidate Form, "we conclude that although the species' viability and distribution is limited in some areas, it appears

to be stable or increasing in a significant portion of its historic range.” We found stable to increasing populations in Wyoming, Eastern Colorado, western-most Kansas, New Mexico, Oklahoma, and Montana. Furthermore, declining trends have not been evident in recent decades. Population numbers were at a low point in the late 1800s and early 1900s and have increased in most States since then. We also believe there is adequate information available to conclude that the swift fox is more abundant and distributed more widely, and is more flexible in its habitat requirements than previously thought.

Lastly, you allege that “state-collected data do not demonstrate population trends that support the conclusion that swift fox populations are increasing.” You also allege that “despite some swift fox reintroduction and recovery efforts in the Northern Plains of the U.S. and Canada, insufficient data exist to support the claim that swift fox populations are recovering throughout their historic range and are no longer in danger of extinction.” The State-collected data we used were surveys conducted in the late 1990s in Colorado, Kansas, Montana, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming. This information differed from reports prior to the 1950s, as discussed in our 2000 Candidate Form. Since the 2000 Candidate Form was written and the species removed from the candidate list, swift fox populations have increased in South Dakota as a result of reintroduction efforts at Bad River Ranch in central South Dakota and at Badlands National Park in the southwestern South Dakota.

We continue to monitor the status of the swift fox, and to accept additional information and comments regarding the status of this species. Since removal from the candidate list 4 years ago, no adverse changes in the species' status or in the factors that might affect the species have been reported. In fact, several conservation and management actions in support of the species are underway. Therefore, we believe that our removal of the swift fox from the candidate list was appropriate.

Sincerely,



Regional Director

Deputy

cc: Jonathan Proctor
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