

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

SOUTHWEST CENTER FOR	:		
BIOLOGICAL DIVERSITY <i>et al.</i> ,	:		
	:		
Plaintiffs,	:	Civil Action No.:	98-0934 (RMU)
	:		
v.	:	Document Nos.:	20, 26
	:		
GALE NORTON, Secretary,	:		
U.S. Department of the Interior, <i>et al.</i> ,	:		
	:		
Defendants.	:		

**ORDER**

Upon consideration of the report and recommendation submitted to this court by Magistrate Judge John M. Facciola and the parties' responses thereto, it is this 24th day of May, 2004,

**ORDERED** that the report and recommendation submitted by Magistrate Judge Facciola and the findings made therein are **HEREBY ADOPTED** in total as the opinion of this court, **EXCEPT THAT** the court declines to adopt the finding that Vancouver Island is a "significant portion" of the goshawk's range and instead directs the Fish & Wildlife Service, upon remand, to reconsider and explain its determination as to whether Vancouver Island is a "significant portion" of the goshawk's range, and assess whether the goshawk is threatened or endangered on Vancouver Island. *Accord Defenders of Wildlife v. Norton*, 258 F.3d 1136, 1146 (9th Cir. 2001) (remanding the case to the Secretary of the Interior to explain her conclusions regarding the range of the flat-tailed horned lizard in light of the court's ruling); *Defenders of Wildlife v. Norton*, No. 00-2996, slip op. at 24-26 (D.D.C. Dec. 26, 2002) (remanding the case to the Fish & Wildlife Service "for reconsideration and explanation consistent with the court's ruling" regarding the

range of the Canada lynx).

**SO ORDERED.**

RICARDO M. URBINA  
United States District Judge