



Mr. Kenneth Salazar
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Ms. Wendi Weber
Northeast Regional Director
U.S. Fish and Wildlife Service
300 Westgate Center Dr.
Hadley, MA 01035

March 19, 2013

RE: Sixty-day notice of violation of section 4(b)(3)(A, and B) of the Endangered Species Act, relating to a late finding on a petition to list the Bicknell's Thrush (*Catharus bicknelli*) as a threatened or endangered species.

Dear Secretary Salazar:

This letter serves as a sixty-day notice from the Center for Biological Diversity, Mollie Matteson, and other interested parties of intent to sue you pursuant to the Endangered Species Act ("ESA") for failing to make required findings on a petition to list the Bicknell's Thrush (*Catharus bicknelli*) as a threatened or endangered species under the Endangered Species Act. 16 U.S.C. § 4(b)(3)(A) and (B). This letter is being provided 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).

In response to a petition to list a species as threatened or endangered, the ESA requires the Secretary to within 90 days determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted ("90-day finding"), and within 12 months to determine whether listing is warranted, not warranted, or warranted but precluded ("12-month finding"). 16 U.S.C. § 1533(b)(3)(A) and (B). The petition for the Bicknell's Thrush was filed August 24, 2010. The U.S. Fish and Wildlife Service issued a positive 90-day finding on the petition on August 14, 2012, Federal Register, 77: 00045-00052. A 12-month finding was due on August 24, 2011. Accordingly, you are in violation of the law and have abrogated your duty to ensure that protection of endangered species occurs in a timely manner thereby avoiding further decline and increased risk of extinction.

The Bicknell's thrush is widely considered to be one of the most vulnerable passerine species in North America. This thrush is a species of high conservation concern because of its limited

breeding range, relatively small population numbers, and numerous ongoing threats to its rare and highly fragmented habitat. Recent analyses yield a global population estimate of 95,000-126,000 birds, and documented annual declines of 7-19 percent in parts of the thrush's range.

Bicknell's thrush is a habitat specialist, restricted to fir-dominated montane forest in the higher peaks of New England and parts of Quebec, New Brunswick, and Nova Scotia. Its preferred habitat is naturally rare, fragmented and vulnerable to anthropogenic stressors such as acid deposition, mercury pollution, and development related to recreation, telecommunications, and wind energy. The most pressing and long-term threat to this limited habitat may be global climate change.

The Endangered Species Act states that a species shall be determined to be endangered or threatened based on any one of five factors. Bicknell's thrush is threatened by at least three of these five factors and demonstrably warrants listing as a threatened or endangered species.

Climate change has the potential to significantly alter the montane habitat used by Bicknell's thrush; warmer temperatures favor the upslope migration of hardwood forest and decline of high-elevation coniferous forests that this species requires for breeding. Such changes in forest composition could dramatically diminish the amount of Bicknell's thrush habitat in its current range. Increased forest pests and pathogens may also result from climate change, further adding to the climatic stressors on high-elevation forests.

Acid precipitation and other air-borne pollutants pose another serious threat to the forest habitat of Bicknell's thrush in the Northeast.

Development related to recreation, telecommunications, and wind energy, industries that often site projects in Bicknell's thrush habitat (high-elevation areas, ridgelines), further fragment and diminish the extent of this species' already-fragmented habitat.

In the last two decades, intensive logging and pre-commercial thinning, primarily in the species' Canadian range, have caused the landscape-scale destruction and degradation of breeding habitat.

On the winter range of Bicknell's thrush, subsistence farming and logging, along with human-caused fires, have severely diminished forest habitat.

Though its tenuous conservation status has been recognized by various government agencies and private conservation groups, no existing regulatory mechanisms, whether federal, state, or international, adequately protect the Bicknell's thrush or its habitat. In particular, none of the designations currently applied to the thrush confer any regulatory means of addressing climate change and curbing forest habitat loss, which are the highest priority threats requiring conservation action.

If the Secretary does not make the required finding for the Bicknell's Thrush or contact us to develop a timeline for making this finding within the next sixty days, we intend to file suit.

Please contact me if you have any questions or if you would like to discuss this matter.

Sincerely,

A handwritten signature in black ink that reads "Mollie Matteson". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Mollie Matteson, Conservation Advocate
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