



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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In Reply Refer To:
R2/ES-TE/034398

DEC 21 2007

Memorandum

To: Director (AES)

From: Regional Director, Region 2 

Subject: 4(f)(1) Determination Regarding Recovery Planning for the Jaguar (*Panthera onca*)

Region 2 currently has the lead for the jaguar under the Endangered Species Act (Act). By this memorandum, I am requesting that the U.S. Fish and Wildlife Service (Service) make a determination under 16 USC §1533(f)(1) that development of a formal recovery plan at this time would not promote the conservation of the jaguar. Your approval signature is requested at the end of this memorandum.

The jaguar is listed as endangered throughout its range, and currently occurs from southern Arizona and New Mexico to southern South America. It was originally listed only as a foreign species under the Endangered Species Conservation Act (ESCA) (37 FR 6476) in 1972. In 1973, the Act superseded the ESCA. The foreign and native lists were replaced by a single "List of Endangered and Threatened Wildlife (List) (40 FR 44412)." In 1979, we published a notice (44 FR 43705) stating that, through an oversight in the listing of the jaguar and six other endangered species, the United States populations of these species were not protected by the Act. The notice asserted that it was always our intent that all populations of the seven species were to be afforded protection under the Act. Endangered status under the Act was extended to the jaguar in the United States in 1997 (62FR 39147).

Based on documented sightings in the late 20th century, occurrences in the United States at the time of the July 22, 1997, listing were limited to southeastern Arizona and southwestern New Mexico. Further, only three records of a female with kittens have ever been documented in the United States (the last in 1910), and no females have been confirmed in the United States since 1963. Recently (1996 through 2007), four male jaguars have been documented in the United States. However, regular or intermittent use of the borderlands area by wide-ranging males, and no indication of the presence of females or cubs, indicates that the United States does not support a separate breeding population. Therefore, actions taken within the United States are likely to benefit a small number of individual jaguars peripheral to the species, with little potential to effect recovery of the species as a whole.

Section 4(f)(1) of the Act requires the Service to develop and implement recovery plans for species listed as endangered or threatened, *“unless [the Service] finds such a plan will not promote the conservation of the species.”* The definition of conservation, in Section 3(3) of the Act means “...all methods and procedures which are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary”.

According to the 2004 draft revised Recovery Planning Guidance jointly developed by the Service and the National Marine Fisheries Service, acceptable justifications for an exemption from having a recovery plan include: (1) delisting is anticipated due to extinction or listing error; (2) the species historic and current ranges occur entirely under the jurisdiction of other countries; and, (3) “other circumstances not easily foreseen, but in which the species would not benefit from a recovery plan.” We believe that preparation of a recovery plan will not contribute to the conservation of the jaguar as defined by the Act, and that exemption from recovery planning efforts for the jaguar is warranted under reasons (2) and (3) above.

Although the jaguar is not an exclusively foreign species, for the purposes of formal recovery planning, it qualifies as such. The Act requires that recovery plans include objective and measurable delisting criteria and an implementation schedule with estimated costs and responsible parties which, when fully met and implemented, would lead to the removal of the species from the List. The jaguar’s range extends through the jurisdictions of approximately 20 countries from the United States border through Mexico, Central and South America. The northern extreme of its range occurs in the southern United States; this area represents less than one percent of the jaguar’s entire range. Generally, the United States has little authority to implement actions needed to recover species outside its borders. These powers are limited to prohibiting unauthorized importation of listed species into the United States, and prohibiting persons subject to United States jurisdiction from engaging in commercial transportation or sale of listed species in foreign commerce. The “take” prohibitions of section 9 only apply within the United States, within the territorial seas of the United States and on the high seas. They do not apply in the foreign countries where nearly all jaguars are actually found. Consequently, the management and recovery of listed foreign species remain the responsibility of the countries in which the species occur, with the help of available technical and monetary assistance from the United States. In short, absent meaningful authority to materially aid in the implementation of a recovery plan, we believe that preparation of a recovery plan for this largely international species will not promote its conservation.

Furthermore, there exist various levels of protection and conservation plans for the jaguar in countries outside of the United States. For instance, in Costa Rica, more than 25 percent of the species’ range lies inside management areas that provide protection to the species and its habitat (Calvo Domingo 2007). In Central America as a whole, eight large wildland areas protect habitat for 50-750 jaguars each and the international Paseo Panthera corridor project to connect populations along the Caribbean lowlands from Mexico and Panama is gaining support (Vaughan and Temple 2002). In Mexico, the jaguar is listed as an endangered species and is a priority species for conservation. Mexico has identified priority areas for jaguar conservation

and some measures to protect jaguars (Chavez and Ceballos 2006). In Brazil, jaguar conservation units and needed management activities have been identified (de Oliveira 2002). Range wide, jaguar conservation units, threats in specific areas, and jaguar population status have been summarized (Sanderson *et al.* 2002, Marié 2005), which lays the groundwork for range wide conservation planning. Although these conservation activities have thus far fallen short in stemming the decline of the jaguar, they represent viable conservation plans and efforts in accordance with the laws and policies of numerous Latin American countries that if fully developed and implemented, will promote the conservation of the species. Development of a recovery plan under the limited authorities of the United States would not add measurable value to these efforts.

Although we find that formal recovery planning at this time will not benefit the conservation of the jaguar, we intend to continue our efforts to protect jaguars within our borders, and to work cooperatively with our partners in northern Mexico in their efforts to conduct research, protect habitat, and reduce killing of jaguars in the northern jaguar population. The Jaguar Conservation Team (JAGCT), led by the Arizona Game and Fish Department and the New Mexico Department of Game and Fish, was formed in 1997 as a partnership to conserve the jaguar in the southwest United States and northern Mexico. The JAGCT developed a Conservation Assessment and Strategy for the Jaguar (Strategy) in 1997. In 2006 and 2007, cooperators reassessed the Strategy. The process included developing a new Memorandum of Understanding outlining parameters for implementing the Strategy to which the Service is a signatory, and updating the Conservation Assessment and Framework (currently in draft final form). This document summarizes current knowledge about the jaguar in the United States - Mexico borderlands, and identifies actions by which to facilitate presence of jaguars in the United States and help ensure persistence here and in Mexico. Through the JAGCT, we plan to continue to:

- support the Borderlands Jaguar Detection Project to detect and monitor jaguar occurrence in southern Arizona;
- cooperate with Mexico and Non Governmental Organizations (NGOs) to develop and implement jaguar management in the border areas;
- cooperate with landowners, NGOs, and other interested groups in reducing threats to jaguars that occur in the United States;
- support research to improve knowledge of jaguars, jaguar conservation, and jaguar detection and handling in northern Mexico and southwest United States; and,
- develop and implement information and education programs to promote protection of jaguars and their habitat.

Although we maintain that these efforts are valuable for the survival and maintenance of the northern jaguar population, this population represents a small fraction of the overall species and its range. Further, the area represented in the United States and northern Mexico is not large enough to independently provide for the conservation and recovery of the species. Any conservation actions for the jaguar that may bring the species to the point that the measures of the Act are no longer necessary will need to be implemented throughout Mexico and Central and South America.

In summary, the recovery of the species as a whole depends on conservation efforts in Mexico and Central and South America and we believe that formal recovery planning for the jaguar should be exempted for the following reasons:

1. The United States contains a small fraction of the individuals and available habitat of the jaguar. The vast majority of the jaguar's geographic distribution occurs south of the United States. Recovery of the jaguar must be focused on its core range outside of the United States jurisdiction.
2. Substantial protection for the northern Mexico population of jaguars, which extends within the borders of the United States, can be gained through supporting the existing voluntary approach of the JAGCT and other programs, and by fostering incentive-based approaches to conservation.

APPROVED BY: *A Dale Hall* DATE: *1/7/08*
Director, U.S. Fish and Wildlife Service

Literature Cited in the Jaguar Exemption Memo

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