



Questions and Answers: Jaguar Critical Habitat Prudency Determination and Recovery Plan

Arizona Ecological Services Field Office

<http://www.fws.gov/arizonaes>

August 17, 2012

Contacts: Jeff Humphrey 602-242-0210 ext. 222, Jeff_Humphrey@fws.gov
Tom Buckley, 505-248-6455, Tom_Buckley@fws.gov

Q: What action is the U.S. Fish and Wildlife Service taking?

A: The U.S. Fish and Wildlife Service (Service) is announcing a proposal to designate critical habitat for the jaguar (*Panthera onca*) under the Endangered Species Act (ESA). The Service is proposing to designate 838,232 acres of critical habitat in six units in portions of southeastern Arizona and southwestern New Mexico. Jaguars in the U.S. are part of a population or populations that occur in Mexico.

Based on a court finding, the Service reconsidered the prudency determination concerning the designation of critical habitat for the jaguar and now finds that designation of critical habitat is prudent. The Service is soliciting public comment through October 19, 2012.

In addition, the Service has re-evaluated its previous determination whether to develop a Service-led recovery plan for the jaguar and has concluded that a recovery plan for jaguars would benefit the species and contribute to its conservation.

Q: Would this action have any impact on border security?

A: No. The Service is also coordinating the development of the critical habitat proposal with U.S. Customs and Border Protection and anticipates no effect from the designation on border protection activities or national security interests. In particular, critical habitat would have no effect on routine border patrols, law enforcement activities, or any existing or planned border security infrastructure. The Secretary of the Department of Homeland Security has the authority to waive compliance with Endangered Species Act provisions including critical habitat ensuring border security requirements will not be impacted).

Q: What is a prudency determination and why did the Service determine that critical habitat designation was not prudent in the past?

A: The ESA requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. According to Service regulations, designation of critical habitat is not prudent when one or both of the following situations exist:

- The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species; or
- Such designation of critical habitat would not be beneficial to the species.

The Service initially made a finding in 1997 under the first of the two prudency prongs. It determined that the greatest threat to the jaguar in the United States was from direct taking of individuals through shooting or other means. As a consequence, the Service determined that designating critical habitat for the jaguar was “not prudent,” because “publication of detailed critical habitat maps and descriptions in the *Federal Register* would likely make the species more vulnerable to activities prohibited under section 9 of the Act,” and therefore increase the degree of threat to the species.

In response to a complaint, the Service re-evaluated this prudency determination and made a finding in 2006 under the second of the two prudency prongs. It reasoned that, since critical habitat can only be designated in the U.S., and since the U.S. portion of the species’ range is only a fraction of one percent of its overall range and no breeding has been documented for decades, there was nothing essential about the U.S. habitat and, therefore, designation of critical habitat would not benefit the jaguar.

On March 30, 2009, the United States District Court for the District of Arizona (Court) issued an opinion that set aside the Service’s previous determination that designation of critical habitat is not prudent and required that the Service issue a new determination as to “whether to designate critical habitat,” by January 8, 2010. In this opinion, the Court required that the Service “shall focus on the principal biological constituent elements within the defined area that are essential to the conservation of the species.” Such elements include consideration of space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Q: What is critical habitat?

A: Critical habitat is a term in the ESA. It identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and that may require special management considerations or protection. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Critical habitat designation does not impose restrictions on private lands unless federal funds, permits, or activities are involved.

Federal agencies that undertake, fund, or permit activities that may affect critical habitat are required to consult with the Service to ensure that such actions do not adversely modify or destroy designated critical habitat.

Q: Why has the Service determined that critical habitat designation for the jaguar is prudent now?

A: The Service has evaluated scientific information that has become available subsequent to the July 12, 2006 finding, in light of the language of the court order overturning the previous “not prudent” finding, and has concluded that there are physical and biological features that can be used by jaguars in the United States, and that some areas may meet the definition of critical habitat and may benefit the species.

Q: What information did the Service use in preparing the critical habitat proposal for the jaguar?

A: The critical habitat proposal was informed by the Recovery Outline for the Jaguar that was recently completed by a Service-assembled, bi-national team of scientists. The team relied on a scientific

population viability analysis and a population and habitat viability analysis for the jaguar in the northern extent of its range in Mexico and the U.S.

Q: How might jaguars benefit from a critical habitat designation in the U.S.?

A: There are no known breeding pairs of jaguars within the borders of the U.S. at this time, and no female jaguars have been detected in the U.S. since 1963. The Service believes that the U.S. currently only supports dispersing or wandering male jaguars that are part of the jaguar population that includes northwestern Mexico. The Service has determined that the designation of critical habitat for the jaguar could be beneficial to the species by providing areas to support some individuals during dispersal movements, by providing small patches of habitat (perhaps in some cases with a few resident jaguars), and as areas for cyclic expansion and contraction of the nearest core area and breeding population in the Northwestern Recovery Unit, which includes southeastern Arizona and southwestern New Mexico. As described in the Recovery Outline for the Jaguar, the Northwestern Recovery Unit is essential for the conservation of the species; therefore, consideration of the spatial and biological dynamics that allow this unit to function contributes to the conservation of the species as a whole.

Q: What is a recovery plan?

A: A recovery plan is not regulatory. A recovery plan is a guidance document that details the specific tasks needed to recover threatened or endangered species and provides a blueprint for actions needed to improve the status of a listed species. Based on the best available science, a recovery plan delineates actions that are required to protect and recover a species. Recovery plans include goals, measurable objectives, an implementation schedule, suggested partners, and an estimated timeline and costs. The purpose of a plan is to outline how a species can be moved from endangered to threatened status and then eventually be removed from ESA protection.

The ESA authorizes the Secretary of the Interior to appoint recovery teams for development of recovery plans. Recovery Plans include:

- 1) A description of site-specific management necessary to achieve the plan's goal for the conservation and survival of the species;
- 2) An objective, measurable criteria which, when met, would ultimately recover the species so it can be removed from the list; and
- 3) Estimates of the time and cost required to carry out those measures needed to achieve the plan's goals and to achieve intermediate steps toward those goals.

Q: Does the Service plan to reintroduce jaguars?

A: The Service has no plans to reintroduce jaguars into the United States. Any jaguars that might be found here will be jaguars that have wandered into the U.S. from Mexico.

Q: What is the distribution of jaguars within the United States?

A: Jaguars in the U.S. are part of a population or populations that occur in Mexico. While historical records show that jaguars have or may have occurred as far north as the Grand Canyon, Arizona, and Santa Fe, New Mexico, their numbers were few throughout the Southwest, and sightings in the United States from 1996 to the present have occurred mainly within approximately 40 miles (64.4 kilometers) of the United States–Mexico border. No females or breeding have been documented in the U.S. for over 40 years.

Q: How is the jaguar threatened with extinction?

A: The primary threat to the species in the United States is habitat destruction and fragmentation. Threats to the jaguar throughout most of its range south of the United States include illegal killing of jaguars, poaching of their preferred prey, and habitat changes and loss through development and resource extraction.

Q: What does the Service do for jaguars?

A: The Service continues to provide protection for jaguars within its borders under the ESA, and works cooperatively with the governments of Arizona, New Mexico, Mexico and other Latin America countries to conduct research, protect habitat and reduce the killing of jaguars. Since 2005, the Service has contributed substantial funds to local and international efforts to help conserve the jaguar, and has helped secure financial support from other sources for on-the-ground jaguar recovery projects in the U.S., Mexico, Belize, Brazil and Argentina.

The Service has been an active member Jaguar Conservation Team (JAGCT), which was formed in 1996 in response to the possible listing of the jaguar in the United States as endangered. The team has accomplished many conservation tasks for the jaguar (that are more complete described in the Conservation Assessment section of the [Jaguar Recovery Outline](#)).

Currently the Service is working with a bi-national team of jaguar and large cat experts to develop a recovery plan for the species across its range. This plan will delineate actions that are required to protect and recover the jaguar, eventually leading to its removal from the list of threatened and endangered species. The Jaguar Recovery Team has completed a [Jaguar Recovery Outline](#) to provide a preliminary strategy for jaguar conservation until a full recovery plan is completed.

Q: How can the public submit information on the proposal?

A: The Service intends that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, the Service is requesting comments or information from other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule.

Written comments and information concerning this finding can be submitted by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. [FWS–R2–ES–2012–0042]; or
- U.S. mail or hand-delivery: Public Comments Processing, Attn: [FWS–R2–ES–2012–0042]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Comments must be received within 60 days, on or before October 19, 2012. The Service will post all comments on <http://www.regulations.gov>. This generally means the agency will post any personal information provided through the process. The Service is not able to accept email or faxes.

Q: Where more information be found?

A: To learn more about the conservation of the jaguar and download information, please visit <http://www.fws.gov/southwest/es/arizona/Jaguar.htm>.

For further information contact: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Fish and Wildlife Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, AZ, 85021; telephone 602-242-0210. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.