United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

February 11, 2010

Michael J. Robinson
Conservation Advocate
Center for Biological Diversity
P.O. Box 53166
Pinos Altos, NM 88053

Dear Mr. Robinson:

This letter is in response to the petition filed by the Center for Biological Diversity, Public Employees for Environmental Responsibility, and Council of Civic Associations dated September 17, 2009, requesting that the U.S. Fish and Wildlife Service (Service) designate critical habitat for the endangered Florida panther according to the Endangered Species Act of 1973, as amended (Act). The Service has discretion as to whether to designate critical habitat for species, such as the Florida panther, that were listed prior to the 1978 amendments to the Act (Pub. L. 93-205, 87 Stat. 884 (1973), codified at 16 U.S.C. 1536).

We have carefully considered your petition and are denying it. We note that we retain the discretion to designate critical habitat for the Florida panther in the future, and if we subsequently determine that designating critical habitat is in the best interest of the Florida panther's conservation and recovery, we would proceed accordingly at that time.

Florida panther conservation is one of our highest priorities, and we have outlined many actions being undertaken to address this conservation goal in the near term. We will continue to implement the Florida Panther Recovery Plan that was finalized in December 2008, marking the culmination of many years of effort by the 42-member Florida Panther Recovery Team that was led by our office. The Recovery Plan outlines the full suite of actions needed to conserve and recover the Florida panther and recognizes the importance of habitat in southwest Florida.

We will also continue working with a range of partners to implement important efforts such as the Picayune Strand Restoration Project, an essential part of the Comprehensive Everglades Restoration Plan. This 55,000-acre restoration project falls within the Florida panther's Primary Zone and is near other important lands such as Fakahatchee Strand State Park, Florida Panther National Wildlife Refuge, and Big Cypress National Preserve. Important phases of the project including road removal and canal plugging have already begun, and a Florida panther den has already been recorded in the project footprint, which clearly would not have been possible if this area had been lost to the development that was proposed in the 1960s. The Service was part of an historic groundbreaking for the Picayune Strand project that took place on January 7th and launched another key phase of this extremely important Everglades restoration project. Our role

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in project implementation, including future monitoring and adaptive management efforts, will be pivotal to restoring the greater Everglades ecosystem and conserving the panther.

Of course, we will continue important reviews under Section 7(a)(2) of the Act of proposals that "may affect" the panther and the areas in which they are found. This section requires all Federal agencies to consult with us to insure that the actions they authorize, fund, or carry out are not likely to "jeopardize the continued existence" of the species. It is important to note that our Panther Focus Area and related guidance associated with our current Section 7(a)(2) consultation requirements include the Primary, Secondary, and Dispersal Zones outlined in Kautz et al. (2006) and referenced in your critical habitat petition. In addition, our Panther Focus Area includes additional locations that were identified as important for the Florida panther by other recent science.

We will also continue to advance conservation banking, a promising approach to protect, restore, and manage in perpetuity strategically important Florida panther habitat. We have already finalized a conservation bank in Hendry County in the Primary Zone and another bank in Hendry County in the Dispersal Zone, and another conservation bank in Collier County in the Primary Zone is nearly complete. Many other banks in strategically important locations are now being considered.

Implementing Florida panther crossings across key segments of roads in south Florida will continue to be a key point of focus. To address the threat to Florida panthers from vehicle collisions, two crossings are now planned for Oil Well Road, one for County Road 846 east of Immokalee, and four for U.S. 1 in the southeastern part of the Florida panther's range. We are also working with partners to discuss options on U.S. 41 and Turner River Road, and additional needs will be considered in other locations in the future.

We also will continue to improve the scientific understanding of Florida panthers and their habitats. For example, we are working on a model to better understand the functional value of Florida panther habitat, which has been peer reviewed and is now being improved based on this feedback. We are also working with the Florida Fish and Wildlife Conservation Commission and the University of Florida to estimate Florida panther survival and reproductive rates and examine the effects of factors hypothesized to be relevant to Florida panther ecology and management. We are completing a population-viability-analysis model to better understand the dynamics and persistence of the Florida panther population and examine the effects of various management scenarios on these variables. This will be an additional tool for use in planning Florida panther management. We are also monitoring the trends in the Florida panther population by an annual population count of adult and subadult Florida panthers as determined from the total number confirmed by physical evidence.

We also note that many other conservation organizations do not support critical habitat designation at this time, but instead support a different strategy for recovery. On November 6, 2009, four conservation organizations, including Audubon of Florida, the Collier County Audubon Society, Defenders of Wildlife, and the Florida Wildlife Federation, wrote to the

Department of the Interior (see attached) concerning Florida panther critical habitat petitions we had received. While recognizing the value of critical habitat as a conservation tool, these groups are advocating a different approach for the Florida panther that they have suggested will ultimately provide greater conservation benefit for this critically endangered species.

These groups are working toward a collaborative approach with major landowners in Collier County, Florida, to implement a landscape-scale Habitat Conservation Plan for which the landowners would seek a permit from the Service in accordance with Section 10 of the Act. This effort, known as the Florida Panther Protection Program, will undergo rigorous review by the Service, as well as be subject to public evaluation and comment. Given the scope of this concept, we have created a team of biologists across office programs to consider every aspect of the concept in detail. We agree that this model, if ultimately successful, could provide a framework for conservation and recovery efforts in other locations, particularly because of the amount of privately owned lands in the northern portion of the Florida panther's Primary Zone and Dispersal Zone, and also in South-Central Florida.

We thank you for your interest in Florida panther conservation and welcome working with you to implement the Florida Panther Recovery Plan and develop creative approaches to conserve the Florida panther and its habitat.

If you have additional questions, do not hesitate to call me at 772-562-3909.

Sincerely,

Paul Souza
Field Supervisor
South Florida Ecological Services Office

cc:
Conservancy of Southwest Florida, Naples, Florida
Florida Panther NWR, Naples, Florida (Ben Nottingham)
FWC, Tallahassee, Florida (Nick Wiley)
Office of Solicitor, Atlanta, Georgia (Mike Stevens)
Service, Atlanta, Georgia (Patrick Leonard)

Audubon of Florida
Collier County Audubon Society
Defenders of Wildlife
Florida Wildlife Federation

November 6, 2009

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

RE: Continuing to Collaboratively Protect Florida Panther Habitat

Dear Secretary Salazar:

On June 26, 2009, Field Director for the U.S. Fish and Wildlife Services, Southeast Ecological Services Office, Paul Souza wrote a letter to the Conservancy of Southwest Florida in response to their petition of January 20, 2009, for designation of critical habitat for the endangered Florida panther. Mr. Souza's response, while acknowledging the importance of critical habitat designation as one tool to consider for protecting the panther, made it clear that the Service was also pursuing several alternative, very promising and productive strategies that are currently taking precedence. Our organizations wrote to you in May 2009 to emphasize a similar message and we are writing again to reiterate our position on critical habitat and other strategies we are having significant success with in our collaborative efforts to protect and recover the Florida panther. We write also in response to another petition for designating critical habitat for the panther from several groups including the Center for Biological Diversity.

As we stated in our May letter, our groups generally embrace designating critical habitat as an important tool under the federal Endangered Species Act and we continue to support its use. However, we have elected to follow another path which we believe will ultimately provide greater conservation benefits for this critically endangered species.

For several years our organizations have been working collegially with landowners, ranchers, government representatives, and other stakeholders to achieve science-based protections for more than 800,000 acres of privately owned occupied habitat, starting with 182,000 acres in Collier County. Our partnership with eight major South Florida landowners (Alico Land Development Corporation, Barron Collier Partnership, Collier Enterprises, Consolidated Citrus LP/King Ranch, English Brothers, Half Circle L Ranch Partnership, Pacific Tomato Growers

LTD, and Sunniland Family Limited Partnership) has resulted in a forward-thinking strategy aimed at protecting habitat and assisting Florida panther recovery. Our vision is detailed in the Florida Panther Protection Program, www.floridapantherprotection.com.

In addition to successfully promoting local land use policies that reward landowners who forever protect natural and agricultural lands, we are working with our Florida Panther Protection Program partners on a Habitat Conservation Plan. The process guarantees extensive data analysis and provides opportunities for public input. Since our May letter, a long anticipated biological analysis and report by a team of six scientists on whether our proposed Florida Panther Protection Program will benefit the panther over current programs has been completed and issued with a positive conclusion. The final report can be viewed at http://www.floridapantherprotection.com/pdf/Technical%20Review%20Team%20Report.pdf. The findings will undoubtedly be relevant to the Habitat Conservation Plan.

Of course, if the Habitat Conservation Plan fails, critical habitat designation may be necessary.

With support from the Department of the Interior, the Florida Panther Protection Program can provide a model for expansion and restoration of the panther's habitat, including into Central Florida and reintroduction of panthers elsewhere in the Southeastern United States. It will demonstrate to landowners, public officials, and other stakeholders that we can work together to recover Florida panthers and meet the needs of communities.

If you have questions or seek more information, please contact anyone below.

Sincerely yours,

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cc: David Hayes, DOI
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Sam Hamilton, USFWS
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