

Applicant name	Permit No.	Date issued
Whitaker, John O .....	839763	5/26/2006
Eric R. Britzke .....	023666	5/26/2006
WDH Ecological Services .....	128263	5/30/2006
Cuthbert, Francesca J .....	125333	5/31/2006
Timpone, John Charles .....	120231	5/31/2006
Yates, Mark D .....	057462	6/9/2006
R.D. Zande & Associates .....	128304	6/9/2006
Scott, Debra Ann .....	108952	6/13/2006
Barton, Barbara Jean .....	104664	6/14/2006
Robbins, Lynn W .....	840524	6/14/2006
Minnesota Department of Natural Resources .....	129763	6/15/2006
Ecological Specialists, Inc .....	838055	6/26/2006
<b>Incidental Take Permits</b>		
Indiana-American Water Company, Inc .....	106231	3/6/2006
Northern Indiana Public Service Company .....	106233	3/6/2006
Predevelopment Ltd .....	117661	12/21/2005

Each permit listed above was issued only after it was determined that it was applied for in good faith; that by granting the permit would not be to the disadvantage of the listed species; and that terms and conditions of the permit were consistent with purposes and policy set forth in the Endangered Species Act of 1973, as amended.

**ADDRESSES:** Mr. Peter Fasbender, Regional Permits Coordinator, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056.

**FOR FURTHER INFORMATION CONTACT:** Additional information on the permits may be requested by contacting Mr. Peter Fasbender, at (612) 713-5343, or [peter\\_fasbender@fws.gov](mailto:peter_fasbender@fws.gov).

Dated: June 29, 2006.

**Sean Marsan,**

*Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.*  
[FR Doc. 06-6153 Filed 7-11-06; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Endangered and Threatened Wildlife and Plants; Determination That Designation of Critical Habitat Is Not Prudent for the Jaguar

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of finding.

**SUMMARY:** We, the U. S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), have determined that it is not prudent to designate critical habitat for the jaguar (*Panthera onca*). This determination is based on a thorough review of the best available data, which indicate that there are no areas in the United States that meet the

definition of critical habitat as defined in the Act. As such, designation of critical habitat would not be beneficial to the species and therefore is not prudent.

**DATES:** This finding is effective July 12, 2006.

**ADDRESSES:** The supporting materials used as the basis for this finding are available for inspection, by appointment, during normal business hours at the Arizona Ecological Services Office of the U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021-4951.

**FOR FURTHER INFORMATION CONTACT:** Field Supervisor, Arizona Ecological Services Office (see **ADDRESSES** section) (telephone (602) 242-0210; facsimile (602) 242-2513).

#### SUPPLEMENTARY INFORMATION:

##### Background

Since the July 22, 1997, publication of the final listing rule that extended endangered status for the jaguar into the United States (62 FR 39147), new information has been documented for the jaguar in the United States and Mexico. Below we present a summary of relevant information used in making our determination that designating critical habitat in the United States for the jaguar is not prudent. For more information regarding all aspects of the jaguar, refer to the July 22, 1997, listing rule (62 FR 39147), Jaguar Conservation Team documents and notes ([http://www.azgfd.gov/w\\_c/es/jaguar\\_management.shtml](http://www.azgfd.gov/w_c/es/jaguar_management.shtml)), and the literature they cite.

The jaguar, a large member of the cat family (Felidae), is an endangered species that currently occurs from southern Arizona and New Mexico to southern South America. Jaguars in the United States are part of a population,

or populations, that occur largely in Mexico. As the July 22, 1997, listing rule (62 FR 39147) discusses, jaguars in the United States historically occurred in California, Arizona, New Mexico, Texas, and possibly Louisiana. The last jaguar sightings in California, Texas, and Louisiana were documented in the late 1800s or early 1900s. While jaguars have been documented as far north as the Grand Canyon, sightings in the late 20th century to the present have occurred mainly along the international boundary of the United States and Mexico. Further, only three records of a female with kittens have been documented in the United States, the last in 1910 (Lange 1960; Nowak 1975; Brown 1989), and no females have been confirmed in the United States since 1963 (Brown and Lopez-Gonzalez 2000). Based on documented sightings in the late 20th century, occurrences in the United States at the time of the July 22, 1997, listing (62 FR 39147) were limited to southeastern Arizona and southwestern New Mexico. Recently (1996 through 2006), possibly five transient male jaguars have been documented in the United States. Of those five, in 1996, two male jaguars were photographed in the United States: one on March 7, 1996, in the Peloncillo Mountains, located along the Arizona—New Mexico border (Glenn 1996; Brown and Lopez Gonzalez 2001), and another on August 31, 1996, in the Baboquivari Mountains in southern Arizona (Childs 1998; Brown and Lopez Gonzalez 2001). In February 2006, a jaguar was observed and photographed in Hidalgo County, New Mexico. Using remote cameras, jaguars were photographed in the United States near the Arizona—Mexico border beginning in 2001, and as recently as April 2006. Sightings over the past decade indicate that some male jaguars may occasionally range into 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 physical and biological features in the United States may allow individual transients to survive, at least temporarily, but do not support a breeding population. As such, we do not believe that these features in the United States are essential to the conservation of the species.

Swank and Teer (1989) described the distribution of the jaguar in Mexico as a broad belt from central Mexico to Central America. However, Brown (1991) suggested that there may be more jaguars in northern Mexico than are officially reported. He mentioned reports of two jaguars, which were killed in central Sonora around 1970. He also discussed assertions by the local Indians that both male and female jaguars still occurred in the Sierra Bacatete about 200 miles (323 kilometers) south of Arizona. Brown speculated that if a reproducing population of jaguars is still present in these mountains, it may be the source of individuals that travel northward through the Sierra Libre and Sierra de Madera and the possible source of the transient males that have been documented in the United States.

Brown and Lopez-Gonzalez (2001) summarize reports of jaguars killed or captured in the Mexican states of Sonora and Chihuahua from 1900 to 2000. These authors also discuss an extant population of jaguars in the State of Sonora. They describe an extant population in the rugged barrancas connecting northern Sinaloa and Sonora and another population in the Sierra Bacatete area in southern Sonora. However, the most northern population of jaguars reported by Brown and Lopez-Gonzalez (2001) is in the area of the towns of Huasabas and Sahuaripa, approximately 130 miles (210 kilometers) south of the United States—Mexico border.

Rabinowitz (1997, 1999) suggested that there is a lack of evidence to support the presence of a significant United States population and stated that the southwestern United States has been “never more than marginal habitat at the extreme northern limit of the jaguar’s range.” He stated that several points stand out: (1) The low number of confirmed or credible sightings in the last century imply that there was no more than small, short-lived populations in the United States over the last century; (2) 74 percent of the sightings being male may be indicative of dispersal movements from south of the border; (3) the likelihood of jaguars coming across the border from Mexico

points to a strong possibility for jaguar populations in northern Mexico; (4) only three sightings of females with young in the early 1900s is not indicative of a long-term breeding population; and (5) the lack of references by Native Americans and early Europeans suggests a lack of permanent presence within the last several hundred years. He further concluded that there is no area in the United States that is critical for the survival of any northern jaguar population that may occur in Mexico, or for the species as a whole.

#### Previous Federal Actions

For information on previous Federal actions concerning the jaguar, refer to the July 22, 1997, final listing rule (62 FR 39147).

#### Prudency Determination

After a review of all available information, we have determined that designating critical habitat for the jaguar is not prudent. Section 4(a)(3) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for designating critical habitat for a species. Under 50 CFR 424.12, we are required to designate critical habitat, to the maximum extent prudent and determinable, at the time a species is listed as endangered or threatened. Designation is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

In the July 22, 1997, listing rule (62 FR 39147) we noted that the greatest threat to the jaguar was from direct taking of individuals through shooting or other means, and we 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.” This reason is no longer valid. The Jaguar Conservation Team, Arizona Game and Fish Department, publications, and other sources routinely give specific and general locations of jaguars that have been sighted and currently are being documented in the United States through Web sites, public notifications, reports, books, and meeting notes. Publishing critical habitat maps and descriptions, as part of designating critical habitat, would not result in the

species being more vulnerable in the United States than it is currently.

In determining whether designation of critical habitat would be beneficial to the jaguar, we analyzed whether there are any physical and biological features in the United States that are essential to the conservation of the species and might, therefore, meet the definition of critical habitat. We did not consider designation of lands outside of the United States in this analysis because critical habitat cannot be designated in foreign countries (50 CFR 424.12(h)). “Critical habitat” is defined in section 3 of the Act as (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. “Conservation” means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

The specific geographical areas of the United States occupied by the species at the time of the July 22, 1997, listing (62 FR 39147) includes southeastern Arizona and extreme southwestern New Mexico. Within these geographical areas, critical habitat would be only those areas that have the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. These features include, but are not limited to: 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 germination or seed dispersal; and habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species (50 CFR 424.12b).

As noted above, since the time of the July 22, 1997, listing (62 FR 39147), only five transient males have been documented in the United States. These males are likely using areas within the United States sporadically for foraging. No breeding has been confirmed in the United States since 1910, and only three females with young have ever been documented. The areas where jaguars are occasionally seen are at the extreme

northern limit of the range of the species, and the best available scientific information suggests that no area within the United States is critical for the survival of the species (Rabinowitz 1997, 1999). Loss of or threats to features in the United States that may support these sporadic foraging events is not limiting the recovery of the species. Therefore, these features are not essential to the conservation of the species. Further, we are unaware that any physical and biological features within the United States are in need of special management considerations or protection for the purpose of jaguar conservation as jaguar conservation does not require habitat within the United States. Based on this information, we determine that the physical and biological features occasionally used by the jaguar within the geographical range occupied by the jaguar in the United States are not essential to the conservation of the species and, therefore, do not meet the definition of critical habitat.

We are not allowed to designate habitat outside of the United States as critical habitat (50 CFR 424.12(h)). Further, section 3(5)(C) of the Act, indicates that except in circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the species. In other words, not all areas which can be occupied by individuals of a species are necessarily essential to the conservation of the species as a whole.

The specific areas outside of the geographical area occupied in the United States by the species at the time of the July 22, 1997, listing (62 FR 39147), that is, the historical range, included portions of New Mexico, Arizona, California, Texas, and possibly Louisiana. For areas outside the geographical area occupied by the species at the time of listing, critical habitat is defined as the areas that are essential for the conservation of the species. The area in the United States that is sporadically used by jaguars is only a small part of the range of the northernmost population(s), which are based in Mexico, and appears to be less than one percent of the current range of the species (Wildlife Conservation Society 2006). Because the area used by jaguars in the United States is such a small part of the overall range of the species and because of nomadic use by jaguars, the range of the jaguar in the United States is not enough area to provide for the conservation (i.e., recovery) of the jaguar or even make a significant contribution to the conservation of the jaguar, and cannot

be defined as essential to the conservation 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 in Mexico and Central and South America. Thus, recovery of the species as a whole depends on conservation efforts in Mexico and Central and South America.

In summary, we do not find any habitats within the jurisdiction of the United States that meet the definition of critical habitat, i.e., habitats within the United States that contain the features essential for the conservation of the species and which may require special management considerations and protection, or areas outside of the geographical area occupied by the species that are considered essential to its conservation. Because there are no areas or features essential to the conservation of the jaguar in the United States that meet the definition of critical habitat, designation of critical habitat for the jaguar is not beneficial. We, therefore, determine that critical habitat for the jaguar is not prudent.

Although we have determined that it is not prudent to designate critical habitat for the jaguar, areas occupied by jaguars in the United States will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act, as well as consultation pursuant to section 7(a)(2) of the Act for Federal activities that may affect jaguars, as determined on the basis of the best available information at the time of the action. In addition, the prohibition of taking jaguars under section 9 of the Act (e.g., prohibitions against killing, harming, harassing, and capturing jaguars) continues to apply, which addresses the single greatest threat to the species in the United States, as discussed in the final listing rule.

We will also use our authorities to work with agencies and other partners in Mexico and Central and South America to conserve and recover jaguars outside of the United States. We are currently working with the Jaguar Conservation Team and other partners in developing a framework for the conservation of the northern jaguar populations, including providing recommendations on research needs and procedures in the United States, continuing education efforts, and providing recommendations regarding predator control in areas where jaguars may occur. We are coordinating with Mexico and other partners on jaguar conservation in Mexico through the Trilateral Commission and other

processes. Mexico and countries in Central and South America, along with their non-governmental partners, are continuing conservation efforts, including implementing research programs and developing conservation plans. Specifically, Federal and State agencies in Mexico are developing jaguar conservation plans; we intend to coordinate with Mexico in their development to maintain travel corridors for jaguars to the United States.

#### References Cited

A complete list of all references cited in this finding is available upon request from the Arizona Ecological Services Office (see **ADDRESSES**).

#### Author(s)

The primary author of this notice is the staff of the U.S. Fish and Wildlife Service.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: June 30, 2006.

#### H. Dale Hall,

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. E6-10644 Filed 7-11-06; 8:45 am]

**BILLING CODE 4310-55-P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Shawangunk Grasslands National Wildlife Refuge

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability: Final comprehensive conservation plan and finding of no significant impact.

**SUMMARY:** The Fish and Wildlife Service (Service) announces the availability of the final Comprehensive Conservation Plan (CCP) and Finding of No Significant Impact for the Shawangunk Grasslands National Wildlife Refuge (NWR). Prepared in conformance with the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, and the National Environmental Policy Act of 1969, the plan describes how we intend to manage that refuge over the next 15 years.

**ADDRESSES:** You may obtain copies of this CCP on compact disk or in print by writing to Wallkill River NWR, 1547 County Route 565, Sussex, New Jersey, 07461, or by calling 973-702-7266. You