

## Questions and Answers – Critical Habitat for the Florida Panther

**BACKGROUND:** Via three separate actions in calendar year 2009, The Conservancy of Southwest Florida, The Sierra Club, The Center for Biological Diversity, The Council of Civic Associations and Public Employees for Environmental Responsibility petitioned the U.S. Fish and Wildlife Service to designate critical habitat for the endangered Florida panther. The organizations also sent the Department of the Interior 60-day notices of intent to sue. The Service responded to these notices and petitions on February 11, 2010.

1. Why isn't the Service designating critical habitat at this time?

We do not believe critical habitat designation is in the best interest of the Florida panther at this time. There are three major reasons:

- The designation would take limited resources away from higher priority actions such as the Florida Panther Recovery Plan, which was finalized in December 2008 and outlines the full array of actions needed to recover the panther. Examples of priorities include the Picayune Strand Restoration Project, a 55,000 acre project in the panther's Primary Zone habitat that recently saw ground break for one of its major components; the establishment of conservation banks, which is a promising approach that protects large parcels of strategically important habitat forever; the implementation of wildlife crossings to help panthers safely cross roads; the review of the Florida Panther Protection Program, a landscape-scale conservation effort proposed by a number of environmental organizations and landowners in Collier County; and the completion of important science to assist panther conservation and recovery.
- A public-private partnership approach is essential for recovery of the Florida panther since so much of the panther's habitat is privately owned. A critical habitat designation so closely following the finalization of the Florida Panther Recovery Plan would possibly undermine the long-term strategy outlined in the plan to constructively engage private landowners; State, Federal, and local agencies; and other interested groups and members of the public. This dialogue is a key part of addressing the human dimension aspects of panther recovery.
- Even in the absence of a critical habitat designation, any Federal agency action that may affect the panther will still require consultation with the Service.

However, as stated in our responses to the petitioners, we retain the discretion to designate critical habitat for the Florida panther in the future. If we ever determine that designating critical habitat is in the best interest of the species, we will proceed accordingly.

2. If critical habitat is designated, doesn't that mean no further development can occur?

No. A critical habitat designation does not necessarily restrict further development. It is a reminder to Federal agencies that they must make special efforts to protect the important characteristics of these areas. Furthermore, a critical habitat designation has no effect on

situations where a Federal agency action is not involved—for example, a landowner undertaking a project on private land that involves no Federal funding or permit.

3. Does a critical habitat designation affect all activities that occur within the designated area?

No. Only activities that involve a Federal permit, license, or funding, and are likely to destroy or adversely modify the area of critical habitat would be affected. If this is the case, we would work with the Federal agency and, where appropriate, the private or other parties seeking that Federal action to amend their project to allow it to proceed without adversely modifying or destroying the critical habitat. Thus, most Federal actions are likely to go forward, but some will be modified to minimize harm to critical habitat.

4. Does the Endangered Species Act (ESA) require that the Service designate critical habitat for the Florida panther?

No. The Service has discretion whether to designate critical habitat for species, such as the Florida panther, that were listed prior to the 1978 amendments to the Act.

5. Do other conservation/environmental groups share the Service's position, or are you standing alone on this?

The environmental community has expressed differing opinions. However, the Florida Wildlife Federation, Audubon and Defenders of Wildlife are not in favor of critical habitat designation at this time and are supporting instead the review of the aforementioned Florida Panther Protection Program.

6. What regulatory mechanisms are already in place?

Section 9 of the ESA prohibits unauthorized “take” of Florida panthers (and other listed species) and any Federal agency action that may affect the panther requires consultation with the Service in accordance with Section 7 of the ESA. Take is defined under the ESA as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. The ESA makes it illegal for any person to take any species listed as threatened or endangered without authorization. Take prohibitions also apply to the habitat a listed species requires for its survival.

We will continue important reviews under section 7(a)(2) of the ESA 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 the critical habitat petitions. In addition, our Panther Focus Area includes additional locations that were identified as important for the Florida panther by other recent science.

7. Where does the panther occur? What habitat does the panther use?

Historically occurring throughout the southeastern U.S., today the panther is found in less than five percent of its historic range in one breeding population of about 100 animals, located primarily in Southwest Florida. Panthers are wide ranging, secretive and occur at low densities. They require large contiguous areas to meet their social, reproductive and energetic needs. Panther habitat selection is related to prey availability (i.e., habitats that make prey vulnerable to stalking and capturing are selected). Dense understory vegetation provides some of the most important feeding, resting and denning cover for panthers.