

APNM Historical Involvement in Cougar Protection

Since 1996, APNM has worked to protect New Mexican cougars from arbitrary and indefensible management by state and federal agencies. Due to the public and APNM's advocacy for stronger cougar protection, in August 1998 the New Mexico Game Commission (Commission) adopted a Cougar Management Plan (Plan). The Plan, which included kill quotas and zone management, was the first of its kind in the nation, to our knowledge. While inadequate in some respects, the Plan was a positive step in that for the first time it imposed some specific restrictions on cougar killing in New Mexico. Approval of the Plan nullified the Commission's earlier double bag limit policy.

Although the Commission-approved double bag limit was in effect for one season, APNM withdrew its lawsuit against the Commission, a suit which challenged the double bag limit. This was because the Plan was implemented almost immediately after APNM's lawsuit was filed, in the summer of 1999. Following is a summary of APNM's persistent involvement in cougar management in New Mexico.

APNM's and Defenders of Wildlife's Lawsuit Against New Mexico Animal Damage Controls Cougar Killing

In May 1998, APNM and Defenders of Wildlife (Defenders) sought to stop Wildlife Services (formerly Animal Damage Control), the US Forest Service and the Bureau of Land Management from further cougar killing on federal lands until the defendants comply with the National Environmental Policy Act (NEPA). The suit, filed in New Mexico Federal District court, asked that the defendants assess the impacts of their cougar killing in New Mexico by preparing an adequate Environmental Assessment (EA), and if necessary, an Environmental Impact Statement (EIS).

Wildlife Services (WS) had published EA's for predator damage management in all three of its state districts. But the assessments "failed to consider significant, relevant and new scientific information about cougars" published in a study by the prestigious Hornocker Wildlife Institute. The \$1.4 million, ten-year study was commissioned by the New Mexico Department of Game and Fish (NMDGF) and focused on cougars in the San Andres Mountains. Hornocker's Ken Logan is clear in stating that no one knows the population size or trend of New Mexico's cougars. Yet Wildlife Services made dangerous assumptions about cougars without any hard data in their EAs. Study results were misinterpreted and even ignored. ADC essentially shelved the study in favor of maintaining the agency's status quo of killing cougars without regard to the impact of their killing.

In January 2000, APNM and Defenders of Wildlife prevailed in court when it was determined that ADC's cougar killing violated federal law. The United States District Court for the District of New Mexico held that the federal predator control program violated the National Environmental Policy Act (NEPA) by failing to consider important information about cougars published in a report of a ten-year study of cougars in the state. The study was conducted by Ken Logan of the Hornocker Wildlife Institute and has been referred to as the Logan report.

Specifically, United States District Judge James Parker found: Because Defendants do not have an accurate estimate of the cougar population based on scientific data, because there is no data to support the EAs [Environmental Assessment] assertion that the cougar population is stable, and because Defendants have failed to provide a satisfactory explanation of their utilization of the 28% or 30% sustainable harvest level, it is not possible to know whether the cougar population is actually declining in any of the three districts. If it is, any impact on the cougar population from the predator damage management program-even the deaths of seven to eleven cougars each year-could have a significant impact on the human environment.

The Court stated that Defendants conclusion that the predator damage management program will not have any significant effects on the environment appears to be based on assumptions, presumptions, or conclusions themselves not facts based on any evidence, documents, or data in the Administrative Record.

The Court further pointed out that Defendants seemed to have plucked from the Logan report without considering all of the data contained in the report, illustrating the point that agencies routinely pick and choose whatever science tends to support the status quo of killing wildlife without consequence.

The Court agreed with APNM's position that ADC did not base its predator damage management of cougars on sound science and remanded the agency's decisions for further study. While the decision did not affect cougar hunting nor enjoin ADCs killing of cougars in New Mexico, it did require ADC to gather the necessary scientific data and conduct the required scientific analysis to determine whether the predator damage management program will have a significant effect on the human environment.

APNM's Executive Director, Elisabeth Jennings, stated, We hope that federal and state agencies are paying attention to this decision and see it as a wake-up call. If arbitrary agency decisions with the potential to harm wildlife cant be challenged through the process of public involvement, they will be challenged in the courts. ADC is a particularly egregious agency in that there is no appeals process. Unless you go to court, you get what you get, like it or not.

Cougar/Bighorn Sheep Conflict

In the summer of 1999 APNM first learned that the Commission intended to authorize preventive killing of additional cougars, ostensibly to protect the states endangered bighorn sheep in four areas. APNM's research indicated that more likely causes for the decline of the bighorn sheep population were eradication of habitat, loss of preferred cougar prey (mule deer) and human encroachment into bighorn habitat. After all, cougars and bighorn sheep evolved together and have thrived in each others presence for centuries. APNM generated widespread media supportive of its position, challenging the targeting of cougars, while other causes of bighorn decline were largely ignored. In addition, plans to do intensive cougar control in bighorn areas have never included meaningful measurements of the effect of such intensive cougar control. (Game and Fish currently claims they are measuring the effect of their cougar control, but when pressed on the issue, they are on record saying that they cannot give a date for which the data they've collected will be reduced to reveal any meaningful information about cougars or bighorn sheep.) At Commission meetings, APNM exposed and formally protested the Department of Game and Fish's (Department) failed plans to increase

cougar kills in what amounted to one quarter of the state (15 hunt units) for five years. The Commission voted to continue the killing plans anyway, beginning in September 1999.

Livestock Depredation Kills

In the spring of 2000, ranchers in southeastern New Mexico asked the Department to expand a controversial cougar killing program known as the GMU-30 Program. The expansion would have authorized additional preventive cougar killing in prime cougar habitat, ostensibly to reduce livestock depredation. The Department abandoned the project at the time, but have just recently revived the flawed plan, which has benefited fewer than six area landowners, at a cost of just under \$42,000 per year in payments to a private trapper who is the father of one of the ranch owners.

Since 1985 in GMU30, up to 14 cougars could be killed each year, regardless of whether or not livestock losses have actually occurred. The Game Commission recently increased that number to 20, and allowed the preventative program to be unit-wide. NMDGF records show that between 1985 and 1999, 173 cougars were killed in GMU30 alone in the program. Since 1985, NMDGF has paid over \$1/2 million to kill cougars in this controversial program for the benefit of five ranchers in the beginning, and over the lifetime of the program for the benefit of about ten-fifteen ranchers.)

Additional Changes to Cougar Zone Management

In August 2000, the Commission passed cougar hunting regulations (for the 2001-2002 season) expanding the cougar season to a year-round hunt in the bighorn sheep ranges of three management zones. At the September 2001 Commission meeting the Commission approved: the largest ever statewide quota of 227 cougars for the 2002-2003 season; unlimited, year-round cougar hunting and two cougar hunting tags in all desert bighorn sheep areas and two Rocky Mountain bighorn sheep areas; two hunting tags for bighorn areas; and year-round, unlimited cougar hunting on private land. Additionally, in February 2002, the Commission voted to allow year-round, unlimited cougar hunting in three game management units (GMUs) in southeastern New Mexico, and to allow two cougar licenses per person in those units. The commission also approved an increase from 14 to 20 cougars allowed killed per year in a preventative killing program in GMU 30.

Collectively, these Commission and Department actions indicate a disturbing trend toward completely undermining the Cougar Zone Management Plan which, from the outset, was unscientific and inadequate.