

**CENTER FOR BIOLOGICAL DIVERSITY ▪ ANIMAL WELFARE INSTITUTE ▪
SIERRA CLUB – GRAND CANYON CHAPTER ▪
GRAND CANYON WILDLANDS COUNCIL ▪
ANIMAL DEFENSE LEAGUE OF ARIZONA ▪ YUMA AUDUBON ▪
PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY ▪
THE COUGAR FUND ▪ MR. RON KEARNS**

April 14, 2009

BY ELECTRONIC AND REGULAR MAIL

Mr. Bob Hernbrode
Chair
Arizona Game & Fish Commission
5000 W. Carefree Highway
Phoenix, AZ 85086

Mr. Larry D. Voyles
Director
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086

Re: Request that recently captured and radio-collared mountain lions not be intentionally killed:

Dear Chairman Hernbrode and Director Voyles:

The undersigned organizations request that the Arizona Game and Fish Commission (Commission) and the Arizona Game and Fish Department (Department) agree to immediately extend the moratorium on killing any radio-collared mountain lions on or in the vicinity of the Kofa National Wildlife Refuge (KOFA) and expand its applicability to all public lands adjacent to the KOFA (e.g., Bureau of Land Management, Yuma Proving Ground) until, at a minimum, the U.S. Fish and Wildlife Service issues its final environmental assessment and mountain lion management plan for the Kofa refuge. Even then, we request that the Commission and Department institute a statewide policy prohibiting the intentional lethal removal (by agency officials or hunters) of any radio-collared lion, regardless of his/her role in any alleged bighorn sheep predation incidents, to facilitate the ongoing collection of valuable scientific data on the movements, distribution, and habitat use patterns of the lion and due to ethical concerns inherent to using the collar's signal to track and kill the animal.

The Department announced in a March 12, 2009 press release (“Biologists capture, collar and release mountain lion on Kofa NWR”) that a “self-imposed moratorium restricting any lethal removal of mountain lions captured and collared on the refuge” will end on April 17, 2009. The moratorium was to allow the Fish and Wildlife Service (FWS) to conduct an environmental

assessment (EA) for the development of a mountain lion management plan. To date, though the EA scoping process ended in June 2008, a Draft EA has not yet been released for public analysis and comment. A Final EA and Finding of No Significant Impact are, therefore, not expected for many months if not a year or more from this date. The moratorium must be extended, both temporally and spatially, until, at a minimum, the FWS issues a Final EA and FONSI. Even then, depending on the decision made, one or more organizations may pursue legal action to challenge the sufficiency of the analysis and to secure greater protections for the refuge's small lion population.

Prior to the recently reported capture and collaring of a KOFA lion, the Department had collared three other lions captured on the KOFA. Of the three previously collared lions, two have been killed by the Department in June 2007 and March 2008, respectively. The other collared lion lost his collar in July 2007. The killing of the two radio-collared lions resulted in public disapprobation and raised serious questions about the Department's and the FWS's lion management policies. This led to the current moratorium. In February 2009, another lion (one of three believed to be using the refuge) was captured on the refuge and outfitted with a radio-collar. We specifically request that this and any other radio-collared lions on or off of the refuge be allowed to live. Again, this allows the Department and the Service to collect valuable scientific information and also addresses ethical issues relating to using the collar to track and kill the lions.

Lions historically ranged in the KOFA, adapted to the Sonoran Desert, and are part of that desert's ecology. We regret to note that the Department's March 12th press release justifying killing potentially every lion in the Sonoran Desert is based on the same repudiated logic behind the recently remanded federal decision not to recover the endangered jaguar in the United States. Specifically, the Department claims that "historically, mountain lions have only been rare transient visitors to the Kofa NWR" that "there are no verified records of mountain lions on the refuge between 1944 and 2001" and, therefore, "the Kofa NWR is neither critical nor essential to the health of the Arizona mountain lion population." The FWS as well as the Department used all-but-identical language to disparage the need to develop a jaguar recovery plan and designate jaguar critical habitat, decisions that were remanded in Federal District Court in Tucson on March 30, 2009. The Department is clearly attempting to ignore the historical record and to downplay the significance of lions inhabiting the desert to justify their lion management policies. It's assertion that lions on the KOFA are insignificant is also flawed.

The Department's press release offers an incomplete and therefore inaccurate summary of the historic presence of lions on the Kofa National Wildlife Refuge. The release presumes that only modern, proven lion occurrences are valid. But anecdotal and other evidence of lions predating the recent camera trapping and aerial surveying of lions on the refuge belies the notion that a once-transient population has for the first time become resident, simply because reproduction has now been documented on the refuge.

Mountain lions have long been noted in the vast desert region encompassing western Arizona, southeastern California and southwestern Nevada, and are only transient insofar as they have large home ranges that they constantly traverse, or have not yet established a home range. There is abundant evidence of lions' presence throughout the region encompassing the broadest delineation of the mountain lion's historic range. Naturalist Mary Austin, who lived in the northern portion of that range in the Mojave Desert through almost the entire 1890s, observed a "half-eaten carcass" of a yearling cow and beside it "in moist earth by the rill of the spring, the foot-pads of a cougar" (Mary Austin, *The Land of Little Rain*, Penguin Books, 1988, p. 13). Keeping in mind the enormous area demands of just one lion in extremely arid country, that lion's home range could have included parts of today's KOFA National Wildlife Refuge. (See Kenneth A. Logan and Sweanor, Linda L. *Desert Puma: Evolutionary Ecology and Conservation of an Enduring Carnivore*. Island Press, 2001 pp. 28, 416-418.) In 1944, a lion (at that time referred to as a Yuma puma) was trapped and killed within the present day boundaries of the refuge. (A.F. Halloran, "A Recent Record of the Yuma Mountain Lion in Arizona," *Journal of Mammalogy*, 27:89-90, 1946). In more recent decades, hunters and other visitors to the refuge have occasionally spotted mountain lions, and refuge staff have seen their tracks, kills, and heard their cries. Though they clearly exist at low densities, there is no reason to believe that lions that inhabit the KOFA are more transient than lions anywhere else.

The untenable assumption that lions on the refuge are merely transients underlies the notion that lions captured on the KOFA are neither critical nor essential. To the contrary, KOFA lions are likely to be behaviorally and perhaps genetically adapted to the Sonoran Desert and thus are important evolutionarily. Desert bighorn sheep, in turn (as well as other animals and even plants), have adapted to mountain lions and were in part shaped by the presence of mountain lions. Desert-adapted mountain lions, therefore, are ecologically significant on the KOFA and throughout their Sonoran Desert habitat. Moreover, the FWS has a longstanding biological directive to manage for biodiversity¹ – of which lions are important components.

Continued systematic lion killing centered on animals captured on the KOFA threatens to destroy the widely-scattered regional lion population that is only tenuously connected to larger populations elsewhere, and at risk of greater isolation in the face of the exponential growth of Arizona's human population. It is reasonable to foresee that if the tiny population of lions in southwestern Arizona (including those utilizing the KOFA) were to disappear, it might never become re-established.

¹ See Director's Order No. 144 at Section 7e(4)(b) ("managers and project leaders will manage landscapes with biodiversity and resource stewardship as primary goals..."). See also: America's National Wildlife Refuge System Science Team website ("The National Wildlife Refuge System Improvement Act of 1997 recognizes the complexities of natural resource management on refuges and calls for the integration of sound science in the Refuge System's management. Ultimately, refuges are anchors for biodiversity and ecosystem-level conservation and leaders in wilderness preservation" (<http://cc.msnsache.com/cache.aspx?q=75798844238089&setlang=en-US&w=dcd8915c,d2b7f612>)).

There is no urgent “need” to kill lions on behalf of the desert bighorn sheep herd on the KOFA. We understand that the KOFA region bighorn population is of great importance to the Department as a source of bighorn transplants to restore bighorn to suitable habitat throughout the state/region or to augment existing herds. This objective must be considered in the context of what is going on overall with habitat, disease, and other factors. At its peak in both 1994 and 2000, the herd allegedly numbered slightly more than 800 animals. Though returning to this herd size has become the Department’s objective, this may be biologically and ecologically impossible as those historically high population estimates were recorded shortly after periods of larger than average precipitation in the region creating ideal habitat conditions that maximized production and survival. While such conditions could conceivably return in the future, managing a bighorn population and, consequently, imposing lion management strategies, to achieve a bighorn population level that is likely unattainable is biologically reckless and demonstrates the inadequacy of the Department’s single-species management strategy for the KOFA bighorn population.

Moreover, the long-term historical average size of the KOFA bighorn population is closer to the current estimated population of 436 animals reported in November 2008. Changes in the methodologies used to count bighorn, the typical wide confidence interval in annual censuses, and the multitude of factors that influence population numbers make it difficult to compare population estimates over time. Indeed, assuming past counts are accurate and comparable, today’s population estimated at 436 animals is larger than the estimated population of 390 bighorn recorded in 2006 and of the estimated 200-375 bighorn reported on the KOFA from 1970-1978 (*See Investigative Report and Recommendations for the Kofa Bighorn Sheep Herd at 6*).

There are likely many factors that contributed to the decline in the number of bighorn sheep on the KOFA from 2000 through 2006. They include a combination of: global climate disruption and resulting drought; disturbance and stress by motorized use of vehicle routes cherry-stemmed into designated Wilderness; bighorn hunting; disturbance associated with bighorn, deer, quail and other permitted hunts on the refuge; disturbance as a result of research activities including helicopter overflights; observer inexperience and errors; capture of animals for translocation elsewhere; infectious disease; proliferation of non-native vegetation; changes in vegetation composition and structure as a result of decades of livestock grazing that lasted until 1983; genetic isolation as a result of habitat fragmentation outside the refuge; predation by mountain lions, coyotes and bobcats; and the breakdown of bighorn social organization as a tertiary effect of many of the other factors. The Department’s focus on killing mountain lions while ignoring many of the other likely causes is unwise.

Furthermore, in one of the first reported instances of a lion having killed a bighorn on the KOFA, the sheep was ill and partially blind. The lion may have prevented that sick bighorn from infecting other sheep. Killing more lions risks eliminating a significant natural interaction that serves to prevent spread of disease in the bighorn population.

Radio-collared animals are far more valuable alive than dead: The Department expends limited funds to study Arizona's wildlife species in order to, ostensibly, improve their management and to ensure that management strategies are based on the best available scientific information. Lions or other wildlife that are captured and collared represent a treasure trove of data on their movement, distribution, and habitat use patterns along with providing other pertinent ecological and biological information. For this reason, radio-collared animals are far more valuable, particularly from a scientific perspective, alive than dead. Given the limited number of desert-adapted lions in the Sonoran Desert and the paucity of information about the ecology and biology of these animals, it is imperative that any collared lions not be subject to intentional lethal removal by the Department or any of its agents regardless of what alleged impact, if any, the animal is having on bighorn sheep or other prey species. The amount of valuable ecological and biological data that can be obtained from a collared lion surely is of greater value to the Department and to its efforts to base its management strategies on sound scientific foundations, than the bighorn sheep or other prey species that the lion may kill to survive throughout its life.

Please do not kill the recently radio-collared mountain lion. The Arizona Game and Fish Department's press release states that "Currently, the department is observing a self-imposed moratorium restricting any lethal removal of mountain lions captured and collared on the refuge to allow the U.S. Fish and Wildlife Service to conduct an environmental assessment for the development of a mountain lion management plan. The moratorium ends April 17, 2009." The release also states that on Friday, Feb. 27, 2009, the department captured, collared, and released a four-year-old, 109-pound, male mountain lion near the Kofa Mountains. The animal was named "KM04."

We are tremendously concerned that KM04 will be intentionally killed on or after April 17 if he is alleged to have preyed upon more than one bighorn sheep in a six-month period, before the Final EA and decision document are published. We respectfully request that you extend the self-imposed moratorium on killing radio-collared mountain lions in this region, that the moratorium be explicitly expanded to cover collared lions on other public lands in the region, and that you establish a statewide policy prohibiting the intentional killing of radio-collared animals by agency officials or hunters so that those animals can continue to provide valuable scientific data to help improve the species management. As an institution that should first and foremost base its management strategies on science and on adhering to its public trust responsibility for all of Arizona's native wildlife, we would hope that the Department would retain this and future collared lions to gather as much scientific data as is possible rather than act to prevent natural predation on bighorn sheep in a numerically secure bighorn population.

If you have any questions, need additional information about this subject, or to reply to this letter, please contact Michael Robinson, Conservation Advocate, Center for Biological Diversity, P.O. Box 53166, Pinos Altos, NM 88053, by telephone at (575) 534-0360, or via e-mail at michaelr@biologicaldiversity.org.

Thank you for your consideration.

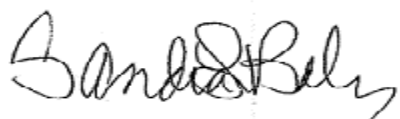
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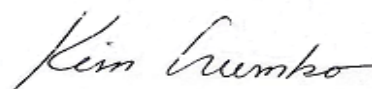
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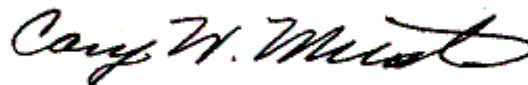
Sandy Bahr
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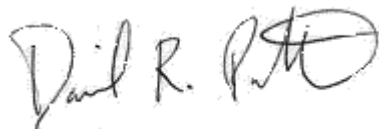
Kim Crumbo
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Daniel Patterson
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Sara L. Carlson
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Ron Kearns
Retired Kofa NWR Wildlife Biologist, USFWS
Former Federal Collateral Duty Refuge Law Enforcement Officer, USFWS

cc:

The Honorable Nick Rahall, Chairman, Natural Resources Committee, U.S. House of Representatives (by electronic mail)
The Honorable Raul Grijalva, Chairman, Subcommittee on National Parks, Forests, and Public Lands, Natural Resource Committee, U.S. House of Representatives (by electronic mail)
Dr. Benjamin Tuggle, Regional Director, FWS, Region 2 (by electronic and regular mail)
Mr. Andy Loranger, National Wildlife Refuge System Planning/Wildlife Resources, FWS, Washington Office (by electronic mail)
Mr. Chris Pease, Chief, National Wildlife Refuge System, FWS, Region 2 (by electronic mail)
Mr. Thomas Harvey, AZ/NM Refuge Supervisor, FWS, Region 2 (by electronic mail)
Ms. Carol Torrez, NEPA/Planning, FWS, Region 2 (by electronic mail)
Ms. Kathy Granillo, Chief Biologist, FWS, Region 2 (by electronic mail)
Mr. Mitch Ellis, Southwest AZ National Wildlife Refuge Complex Manager (by electronic and regular mail)
Ms. Susanna Henry, Refuge Manager, Kofa National Wildlife Refuge (by electronic and regular mail)
Mr. Pat Barber, Arizona Game and Fish Department, Region IV Supervisor (by electronic and regular mail)
Mr. Jim Kenna, State Director, Bureau of Land Management (by electronic mail)
Mr. Todd Shoaff, Field Manager, Bureau of Land Management, Yuma Field Office (by electronic mail)
Chris Horyza, Planning & Environmental Coordinator, BLM Phoenix State Office (by electronic mail)
Ms. Elizabeth Wade, NEPA Coordinator, Yuma Proving Ground (by electronic mail)
Mr. Randy English, Sustainable Range Program Manager, Yuma Proving Ground (by electronic mail)
Ms. Jennifer L. Martin, Commissioner, Arizona Game and Fish Commission (by electronic mail)
Mr. Robert R. Woodhouse, Commissioner, Arizona Game and Fish Commission (by electronic mail)
Mr. Norman W. Freeman, Commissioner, Arizona Game and Fish Commission (by electronic mail)
Mr. William H. McLean, Commissioner, Arizona Game and Fish Commission (by electronic mail)