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RE: opposing Canada’s CoP17 Prop. 5 to downlist the North American cougar subspecies *Puma concolor cougar* and *Puma concolor coryi* from Appendix I to Appendix II

September 2016

We, the undersigned non-governmental organizations and individuals register our concern regarding grave continuing threats to the survival of the *Puma concolor coryi* (the “Florida panther”). We oppose Canada’s CoP17 Prop. 5 (“Prop.5”) to redesignate the Florida panther as an Appendix II species; we urge the US to oppose Prop.5 and Canada to reconsider its position. In support, we offer the following:

Canada bases Prop.5, in part, on assertions that “intense management” exists for this species. However, it is misleading to claim that the Florida panther is subject to “intensive management and recovery actions.” State management of the species has controversially stepped back in favor of increasing, incredible human growth and development pressures. US federal management faces similar pressures, and has, for example, recently permitted development of some 20,000 acres of the sparse remaining panther habitat;¹ the agency is now considering yet another development petition, this one seeking a 50-year, 45,000 acre development, free from federal oversight related to the panther and six other endangered species.² The latter proposal identifies further habitat loss and

fragmentation, and the introduction of extensive new infrastructure, including >\$2billion in 100+ miles of new and expanded roadways, significantly increasing vehicular traffic – the leading cause of death to the endangered Florida panther. One landowner petitioner – who is also a *Florida Fish and Wildlife Conservation* (“FWC”) commissioner – has, despite seeming conflicts of interest, steadily worked at both the federal and state level to delist and enable the “take” of panthers. FWC’s Liesa Priddy, describes the minimal panther populations as a nuisance, “straining” and “exceed[ing]” the tolerance of landowners and draining FWC’s staff time.³ A 2015 draft FWC policy statement suggested it altogether abdicate further responsibility for Florida panther recovery to the federal government.⁴ Another controversial state measure under consideration would open state parks to hunting and certain commercial activities, further increasing stressors to threatened species.

As noted in Prop.5, the Florida panther now “exists as a very small remnant population,” less than 160 individuals, primarily in southwest Florida, attempting to survive in isolated pockets, comprising less than 5% of its former habitat. What little habitat remains is under the constant challenge of burgeoning human population growth and development, as 1,000 new humans enter the state each day. The *Panther Habitat Preservation Plan* identifies about 926,000 acres of habitat considered essential to maintaining a minimum viable population of panthers in south Florida.⁵ About 582,000 acres of this habitat (63 percent) is located within the *Big Cypress National Preserve*.⁶ Nonetheless, the US *National Park Service* has approved extensive oil exploration throughout panther habitat in the *Preserve*, starting as early as this fall.⁷ Moreover, despite its fragile position, the state of Florida has taken no action to address potential future impacts of climate change, which are projected to include, among other items, sea water infiltration to natural aquifers and coastal water rise pushing development inward to further squeeze limited, so-called ‘protected’ lands.⁸ Current panther management does not appear to consider the state’s massive water quantity and quality issues, or the current state of emergency related to severe nutrient pollution from agricultural sources that has resulted in enormous economic loss and devastated ecosystems. These issues compound mounting pressures that ultimately mean less land remains for the already significantly challenged Florida panther.

Prop.5 itself admits that Florida panthers remain threatened by continued habitat loss and fragmentation. As with most large predators, the real challenge becomes the availability or lack of wildlife corridors, the large land expanses requisite to genetic diversity. According to the latest information and scientific findings, what little panther habitat remains is absolutely critical to its survival and recovery.⁹

[C]ompensation in the form of habitat protection required by the agency to offset losses due to development has been largely inadequate ... our study suggests that the amount of habitat remaining has been significantly overestimated.¹⁰

USFWS’ *Florida Panther Recovery Plan* and Kautz (2006) (referenced by the Plan as best available science) describe current panther habitat as crucial to the species’ survival.¹¹

No habitat loss or catastrophes can be tolerated. ... unless the current condition, amount, and configuration of the currently occupied panther habitat are safeguarded, the long-term viability of the panther is not secure¹²

Land purchases to develop wildlife corridors are often discussed in state and federal meetings, yet there has been little to no movement toward actually developing this urgently needed response.

US federal protections under the Endangered Species Act are determined, in part, according to species’ CITES listing, and CITES down listing risks a concomitant reduction in US protections, by removing one basis and providing a new argument to those seeking to remove impediments, such as ESA protections, to satisfy desires for human development or financial gain via increasingly unavailable, valuable land. South Florida has one of the fastest growing human populations in the nation.¹³ The state is expected to grow to more than 25.5 million by 2040, on the order of 200,000 persons each year.¹⁴ One can fully expect any CITES down listing of the Florida

panther to be followed by a petition, either by those currently or soon to be seeking to develop panther territory, to reduce the very federal and state protections Prop.5 relies upon.

The *Florida Panther Recovery Implementation Team* has described threats to panthers as continuing and on the rise.¹⁵ According to a recent *Public Library of Science* study:

The keystone to this recovery strategy is the existing panther population in southern Florida.

...

the panther population is probably below what is required for long-term genetic viability. Therefore, protection of the remaining breeding habitat in south Florida is essential to the survival and recovery of the subspecies and should receive the highest priority by regulatory agencies. Further loss of adult panther habitat is likely to reduce the prospects for survival of the existing population, and decrease the probability of natural expansion of the population into south-central Florida.¹⁶

Panther habitat faces massive fragmentation challenges. According to one USFWS news release:

The panther requires large contiguous areas that contain prey and has dense understory for feeding, resting and denning. Limiting factors for the Florida panther are habitat availability and prey availability. Habitat loss, degradation and fragmentation are among the greatest threats to panther survival. Panther mortality due to collisions with vehicles threatens potential population expansion.¹⁷

Cars killed twenty panthers in the first four months of 2016 alone, and 2015 set a record with 41 fatalities.¹⁸ Speculation this reflects increasing panther numbers isn't supported and ignores explosive human growth and development. It really could not be more plain. Still, these well settled directives have not resulted in increased provisions for panthers, and they have not stemmed (or even responded to) the tide of human sprawl. Worse yet, FWC proposed to altogether reconsider the panther's state endangered status.¹⁹

A debate exists as to whether or not the Eastern Cougar is extinct; however, there is evidence this species still exists, if only in very small numbers.²⁰

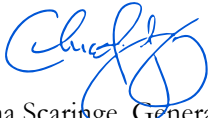
[P]rotection of the Cougar is warranted in eastern Canada for maintaining biodiversity as well as for the ecological role of the species.²¹

Although there has been very little recent international trade in either subspecies, exports of trophies from hunting from the closely related cougar numbered 1,069 from the US and Canada between 2005-2014. Given the high level of international trade in this Appendix-II listed cougar, there is clear potential for international demand for these subspecies, compounding the increasing threats to their survival.²² (Article I of the Convention defines the term 'species' as "any species, subspecies or geographically separate population thereof."²³)

Puma concolor coryi meets the criteria²⁴ for, and must remain, an Appendix I listed species to ensure its survival against increasing and evolving threats. Sadly, the Florida panther appears destined to be one of those species that quietly disappears into extinction before anyone notices or takes appropriate action. For these reasons, the undersigned submit their strong opposition to Canada's CoP17 Prop. 5 to redesignate the North American cougar subspecies *Puma concolor cougar* and *Puma concolor coryi* as Appendix II species; we urge the US to oppose Prop.5 and Canada to reconsider its position.

Thank you for the opportunity to weigh in on this important matter.

Sincerely,



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On behalf of:

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Addendum A

The Text of the Convention includes in its preamble, an appreciation that species lost are lost forever:

***Recognizing* that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come²⁵**

The 2030 *Agenda for Sustainable Development* recites similar goals to protect and prevent against extinction:

We envisage a world ... in which development and the application of technology ... respect biodiversity and are resilient. One in which humanity lives in harmony with nature and in which wildlife and other living species are protected.

...

Goal 15: ... halt biodiversity loss. ... [Target] 15.5 Take urgent and significant action to reduce the degradation of natural habitats, halt the loss of biodiversity and, by 2020, protect and prevent the extinction of threatened species

...

[Target] 15.7 Take urgent action to end poaching and trafficking of protected species of flora and fauna and address both demand and supply of illegal wildlife products ...

[Target] 15.c Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities

...

We are therefore determined ... to protect biodiversity, ecosystems and wildlife. We are also determined to promote sustainable tourism. ... We encourage all Member States to develop as soon as practicable ambitious national responses to the overall implementation of this Agenda.”

Transforming our world: the 2030 Agenda for Sustainable Development, UN General Assembly Resolution 70/1, (emphasis added).²⁶

The text is clear that species will be considered “threatened with extinction” under Appendix I if it meets, or is likely to meet, at least one of these criteria, including:²⁷

- The **wild population is small**, and is characterized by **at least one** of the following
 - an observed, inferred or projected decline in the number of individuals or the area and **quality of habitat**;
 - each **subpopulation being very small**;
 - a **majority of individuals being concentrated geographically** during one or more life-history phases;
 - large short-term fluctuations in population size; or
 - **high vulnerability to either intrinsic or extrinsic factors**.

- The **wild population has a restricted area of distribution** and is characterized by **at least one** of the following:
 - **fragmentation** or occurrence at very few locations;
 - large fluctuations in the area of distribution or the number of subpopulations;
 - a **high vulnerability to either intrinsic or extrinsic factors**; or
 - an **observed, inferred or projected decrease in any one of the following**:
 - the **area of distribution**;
 - the **area of habitat**;
 - the number of subpopulations;
 - the number of individuals;

- the **quality of habitat**; or
 - the recruitment.
- A marked decline in the population size in the wild, which has been **either**:
 - observed as ongoing or as having occurred in the past (but with a potential to resume); or
 - **inferred or projected on the basis of any one of the following**:
 - a **decrease in area of habitat**;
 - a **decrease in quality of habitat**;
 - levels or patterns of exploitation;
 - a **high vulnerability to either intrinsic or extrinsic factors**; or
 - a decreasing recruitment.²⁸

Article I of the Convention defines the term ‘species’ as “any species, subspecies or geographically separate population thereof.”²⁹ “Decline” is defined to include reduction in “area of distribution” an “area of habitat” as well as “abundance” of a species.³⁰ Other applicable definitions include:

- ‘Fragmentation’ refers to the case where most individuals within a taxon are found in small and relatively isolated subpopulations, which increases the probability that these small subpopulations will become extinct and the opportunities for re-establishment are limited.
- ‘Subpopulations’ are defined as geographically or otherwise distinct groups in the population between which there is limited genetic exchange
- ‘Small wild population’ references ... For some low-productivity species where data exist to make an estimate, a figure of less than 5,000 individuals has been found to be an appropriate guideline (not a threshold) of what constitutes a small wild population ...
- ‘Very small wild subpopulation’ references ... For some species where data exist to make an estimate, a figure of less than 500 individuals has been found to be an appropriate guideline (not a threshold) of what constitutes a very small wild subpopulation. ...
- “Intrinsic factors” include, among others:
 - Life history (e.g. **low fecundity**, slow growth rate of the individual, high age at first maturity, long generation time)
 - **Low absolute numbers** or biomass or **restricted area of distribution**
 - Behavioural factors (e.g. social structure, migration, aggregating behaviour)
 - Specialized niche requirements (e.g. diet, habitat)
 - **Reduced genetic diversity**
 - **Depensation (prone to continuing decline even in the absence of exploitation)**
 - Endemism
- “Extrinsic factors” include, among others:
 - Selectivity of removals (that may compromise recruitment)
 - Threats from alien invasive species (hybridization, disease transmission, predation, etc.)
 - **Habitat degradation** (contamination, soil erosion, alteration by alien invasive species, etc.)
 - **Habitat loss/destruction**
 - **Habitat fragmentation**
 - **Harsh environmental conditions**
 - **Rapid environmental change** (e.g. climate regime shifts)
 - Stochastic events.³¹

¹ See, for example, US Department of Interior, USFWS letter regarding power plant proposals for panther territory, available at http://earthfirstjournal.org/newswire/wp-content/uploads/sites/3/2011/05/fws_mcdaniel_ranch_solar-gas_plant_pre-app_tech_ltr_5-6-111.pdf; local conservation groups’ appeal to 11th Circuit Court against development planned in panther habitat, available at http://www.biologicaldiversity.org/news/press_releases/2011/florida-panther-04-20-2011.html; and Hendry County, Florida permit approval to develop prime panther habitat, available at

<http://earthfirstjournal.org/newswire/wp-content/uploads/sites/3/2011/05/hendry-county-zoning-on-power-plant.pdf> (last accessed 9/16/16).

² <http://easterncollierhpcpeis.com> (last accessed 4/25/16).

³ See FWC draft position statement re Florida panther recovery and management (2015), reportedly authored in part by Commissioner Priddy at <http://myfwc.com/media/3050605/4A-PantherPositionPaper-Memo.pdf> (last accessed 4/25/16).

⁴ See FWC draft position statement re Florida panther recovery and management (2015), reportedly authored by Commissioner Priddy at <http://myfwc.com/media/3050605/4A-PantherPositionPaper-Memo.pdf> (last accessed 4/25/16).

⁵ Logan, et al., *Florida Panther, Habitat Preservation Plan: South Florida Population iii*, USFWS (1993) at <http://www.mountainlion.org/us/fl/FL-A-USFWS-Logan-et-al-1993-Florida-Panther-Habitat-Preservation-Plan-South-Florida-Population.pdf> (last accessed 9/21/16).

⁶ National Park Service, *Final Recreational Off-Road Vehicle Management Plan Supplemental Environmental Impact Statement 104* (2000) at <https://www.nps.gov/bic/learn/management/upload/BICY-ORV-Manangement-Plan-2012-Scan.pdf>.

⁷ See National Park Service, *Finding of No Significant Impact for Environmental Assessment Burnett Oil Company, Inc. Plan of Operations Nobles Grade 3-D Survey Big Cypress National Preserve, Florida* (2016) at <https://parkplanning.nps.gov/document.cfm?parkID=352&projectID=53498&documentID=72619>.

⁸ See <http://www.pbs.org/newshour/bb/floridas-everglades-face-new-invasive-threat-rising-sea-levels/> (last accessed 4/25/16), and <http://water.usgs.gov/edu/gwdepletion.html> (last accessed 4/26/16).

⁹ Frakes, Belden, Wood, James, *Landscape Analysis of Adult Florida Panther Habitat*, (July 29, 2015) DOI: 10.1371/journal.pone.0133044; Kautz, et al, *How much is enough? Landscape- scale conservation for the Florida panther*, *Biological Conservation*: Vol. 130, p. 118-133 (2006); *Florida Panther Recovery Plan, 3rd Revision*, USFWS(2008); see also <http://www.sunshinestatenews.com/story/florida-panther-habitat-needed-congressman-insists#sthash.UkFBxYBL.dpuf> (US Congress members call for increased panther protections and to designate critical habitat); USFWS Bulletin, Spring 2015 (quoting Larry Williams, USFWS) at <http://www.fws.gov/endangered/news/episodes/bu-spring2015/story1/index.html> (last accessed 4/25/16).

¹⁰ Frakes, Belden, Wood, James, *Landscape Analysis of Adult Florida Panther Habitat*, (July 29, 2015) DOI: 10.1371/journal.pone.0133044

¹¹ Kautz, et al, *How much is enough? Landscape- scale conservation for the Florida panther*, *Biological Conservation*: Vol. 130, p. 118-133 (2006); *Florida Panther Recovery Plan, 3rd Revision*, USFWS(2008);

¹² Kautz, et al, *How much is enough? Landscape- scale conservation for the Florida panther*, *Biological Conservation*: Vol. 130, p. 118-133 (2006); *Florida Panther Recovery Plan, 3rd Revision*, USFWS(2008).

¹³ See <http://www.america2050.org/florida.html> (last accessed 4/25/16).

¹⁴ See <https://www.colliergov.net/Home/ShowDocument?id=48765> (last accessed 4/25/16).

¹⁵ USFWS Bulletin, Spring 2015 at <http://www.fws.gov/endangered/news/episodes/bu-spring2015/story1/index.html> (last accessed 4/25/16).

¹⁶ Frakes, Beldon, Wood, James. *Landscape Analysis of Adult Florida Panther Habitat* (2015) <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0133044> (last accessed 4/25/16).

¹⁷ USFWS News Release, 12/18/08 at <http://www.fws.gov/southeast/news/2008/r08-054.html> (last accessed 4/25/16).

¹⁸ As reported in the Miami Herald, *Deadliest month ever for Florida panthers, with nine killed* (April 2016) at <http://www.miamiherald.com/news/local/environment/article74537087.html> (last accessed 9/22/16).

¹⁹ See FWC draft position statement re Florida panther recovery and management (2015), reportedly authored by Commissioner Priddy at <http://myfwc.com/media/3050605/4A-PantherPositionPaper-Memo.pdf> (last accessed 4/25/16).

²⁰ Lang, Tessier, Gauthier, Wissink, Jolicoeur, and Lapointe, *Genetic Confirmation of Cougars (Puma concolor) in Eastern Canada*, *Northeastern Naturalist* 20(3):383–396; Mallory, Frank F., Rebecca A. Carter, Jenny L. Fortier, I. Stuart Kenn, Lindsay Weis, and B. N. White. 2012. Cougars, *Puma concolor*, in Ontario: additional evidence. *Canadian Field-Naturalist* 126(4): 320–323.

²¹ Lang, Tessier, Gauthier, Wissink, Jolicoeur, and Lapointe, *Genetic Confirmation of Cougars (Puma concolor) in Eastern Canada*, *Northeastern Naturalist* 20(3):383–396.

²² Resolution Conf. 9.24 (Rev. CoP16) (Article I of the Convention defines the term ‘species’ as “any species, subspecies or geographically separate population thereof. A species "is or may be affected by trade" if:

i) it is known to be in trade (using the definition of “trade” in Article I of the Convention), and that trade has or may have a detrimental impact on the status of the species; or

ii) it is suspected to be in trade, or there is demonstrable potential international demand for the species, that may be detrimental to its survival in the wild.) (emphasis added), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

²³ Resolution Conf. 9.24 (Rev. CoP16) (emphasis added), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

²⁴ See Addendum A.

²⁵ See <https://cites.org/eng/disc/text.php#texttop>

²⁶ UN General Assembly Resolution 70/1 *Transforming our world: the 2030 Agenda for Sustainable Development*, Sept. 25, 2015, laying out Goals and Targets for Parties, effective 1/1/16.

²⁷ Resolution Conf. 9.24 (Rev. CoP16), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

²⁸ Resolution Conf. 9.24 (Rev. CoP16) (emphasis added), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

²⁹ Resolution Conf. 9.24 (Rev. CoP16) (emphasis added), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

³⁰ Resolution Conf. 9.24 (Rev. CoP16), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).

³¹ Resolution Conf. 9.24 (Rev. CoP16), available at <https://cites.org/eng/res/09/09-24R16.php> (last accessed 9/16/16).