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Giving Away the Store: Facing Mounting Scientific Criticism, the Federal Government Continues to Approve Development in the Panther's Last Remaining Habitats

WASHINGTON, DC – A report released today explains how the U.S. Fish and Wildlife Service's (FWS) long-standing reliance on bad science was formally discredited, discusses FWS's response (or lack thereof), and offers recommendations for corrective action.

This paper updates a January 2004 report (*Discrediting a Decade of Panther Science*, Kostyack and Hill 2004), that criticized FWS for failing to acknowledge errors identified by its own FWS-appointed Scientific Review Team (SRT). Since then, the SRT's critique of FWS's methodologies has been reiterated and reaffirmed. While the agency now concedes that it relied on bad science for about ten years, it refuses to acknowledge the harmful impacts this has had on the panther and it has failed to take any corrective action. This report concludes with recommendations on how FWS and other key actors can stop the massive habitat loss and put the panther back on a track toward recovery.

This report, entitled *Giving Away the Store: Facing Mounting Scientific Criticism, the Federal Government Continues to Approve Development in the Panther's Last Remaining Habitats*, by the National Wildlife Federation (NWF), the Florida Panther Society (FPS) and the Florida Wildlife Federation (FWF), makes the following key findings:

- In the past decade, FWS and the U.S. Army Corps of Engineers have consented to the destruction of thousands of acres of Florida panther habitat in southwest Florida, much of which FWS had deemed "essential" to the panther's survival in key planning documents. The agencies typically require developers to acquire land to offset the harm, but this mitigation land has represented only a small percentage of total habitat lost.
- FWS has rationalized its approvals of this extensive net habitat loss by characterizing the panther as a forest obligate (i.e., unable to use non-forested habitats) and by dismissing habitats without large blocks of forest as unimportant to the panther. Yet in recent years, the body of scientific work on which FWS has relied has been disputed by *all* of the panther scientists on the agency's own recovery team *except* the author of that work.

- In 2002, FWS commissioned a new team of independent scientists known as the Scientific Review Team to address the scientific controversy. In December 2003, the SRT issued a scathing report finding that roughly ten years of scientific studies treating the panther as a forest obligate are unsound. FWS does not have any substantive disagreements with these findings.
- In May 2004, a FWS biologist filed a Data Quality Act petition claiming that the alleged “best available science” used by FWS contains unsupported assumptions, uses inappropriate analytical methods, and selectively uses data to support conclusions.
- In a July 28, 2004 letter to Senator Lieberman, FWS maintains that its current approach adequately protects panther habitat and that because FWS was aware of the flaws identified by the SRT, it did not use this methodology as a “sole” basis for its biological opinions. Thus, FWS maintains that all past biological opinions remain valid and that it does not need to change its consultation process for panthers – even though those biological opinions allowed tens of thousands of acres of habitat destruction under a discredited scientific theory.
- In August 2004, a Federal District Court judge invalidated a FWS biological opinion for failure to address the cumulative effects of development in panther habitat. The court stated that “it is surprising that the BiOp does not explain why [the proposed mining site] is not really ‘essential’ to panther survival.”
- Despite FWS’s undisputed use of discredited science, FWS has yet to take steps to ensure that sound science is used when managing panthers and analyzing development impacts on panthers.
- FWS and other key players have an opportunity to reshape FWS’s approach to panther impact analyses. In the near future, the agency may make welcome changes when it responds to a Data Quality Act appeal and issues its first biological opinion since a federal court found the Florida Rock biological opinion arbitrary. FWS has the opportunity to improve and issue its long-overdue Landscape Conservation Strategy and Habitat Conservation Tool. With a new FWS Panther Leader, Chris Beldon, and reorganization of the Florida Fish and Wildlife Commission, we hope to see significant progress in 2005.
- To minimize the risk of extinction, FWS and other key players must adopt a new methodology to evaluate panther habitat, establish a process to ensure greater scientific rigor, identify safeguards and checks and balances to ensure the management decisions are based on sound science, educate the public and urge its support for habitat protection and panther recovery, develop regulatory guidance to protect needed habitat, and seek more federal funding to acquire and protect panther habitat.
- NWF, FPS, and FWF hope to work collaboratively with the agencies and biologists to help change the current course of action and ensure the panther’s recovery.

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A PDF copy of the report is on the Internet at: www.nwf.org/news