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Court orders new review for jaguar habitat

By ARTHUR H. ROTSTEIN

TUCSON, Ariz. (AP) -- A U.S. Fish and Wildlife Service decision not to designate critical habitat and develop a recovery plan for the endangered jaguar was based on incorrect criteria, a federal judge ruled on Tuesday. In a decision favoring environmentalists, U.S. District Judge John Roll said the agency did not use the best scientific evidence available in deciding that critical habitat for the jaguar was "not prudent." He also cited inconsistency with the Endangered Species Act's statutory mandate, Fish and Wildlife's own regulations and relevant case law in striking down the agency's decision.

Roll ordered Fish and Wildlife to review his ruling and make a decision by Jan. 8 on designating critical habitat and preparing a recovery plan. The ruling is a victory for Defenders of Wildlife and the Center for Biological Diversity.

The largest cats native to the Western hemisphere live primarily in Mexico and South America. But they're known to roam in southern Arizona and New Mexico, and one was captured for the first time southeast of Tucson last month. The jaguar was listed as endangered in the United States in 1997, but Fish and Wildlife found that critical habitat was "not prudent," contending that its main threat in the United States was from being hunted. Critical habitat designations afford endangered species vital living space protections and recovery plans offer a pathway to a rebound from likely extinction.

Despite a 2003 challenge from the Center for Biological Diversity, the agency reaffirmed its decision in 2006, contending that the only four or five male jaguars had been in Arizona and New Mexico in the past 10 years. They said the cats only sporadically hunted in the area.

The Interior Department abandoned efforts to develop a recovery plan in January 2008, saying too few of the cats had been spotted to warrant it. Fish and Wildlife's regional director in Albuquerque had recommended that decision, saying "preparation of a recovery plan will not contribute to the conservation of the jaguar."

"Denying the jaguar protection because it is overly endangered is an oxymoron," said Michael Robinson, a spokesman for the Center for Biological Diversity. "That was the essence of the government's plan, that there are so few jaguars that they don't need a recovery plan. And the judge saw right through that." He added: "This decision is a lifeboat to a beautiful but highly imperiled animal."

"We're still digesting and reviewing the judge's decision whether to designate critical habitat or develop a recovery plan for the jaguar," Fish and Wildlife spokesman Jeff Humphrey said. "The court recognized that this was going to be a difficult determination and therefore gave us nine months." Humphrey added, "He just said go back and decide again."

Fish and Wildlife insisted that no area in the U.S. was critical for the species' survival and that the area occupied by jaguars in the U.S. represented less than 1 percent of its total range. It said its conservation depends on efforts in Mexico, Central and South America.

The jaguar caught last month was outfitted with a satellite tracking collar, but it became ill less than two weeks later and was euthanized because of symptoms of kidney failure. Some scientists have challenged that diagnosis, suggesting the animal was extremely dehydrated and should have been kept alive longer.

In his ruling, Roll said that a review of the record "compels the conclusion that the determination not to designate critical habitat for the jaguar was not based upon the best scientific information available." He also noted that in the administrative record, scientific documents exist "to suggest that the designation of critical habitat may be appropriate for the jaguar, and more recent scholarship only seems to strengthen that conclusion." Fish and Wildlife, he said, "failed to articulate a rational basis" for its decision.

Robinson said several so-called Sky Island mountain ranges in southern Arizona and New Mexico are potential locations for designation as critical habitat and recovery areas.