Endangered Species Update

Groups File Hatchery Suit

AWR, Friends of the Wild Swan, and Swan View Coalition filed suit in early November seeking an injunction to prevent the U.S. Fish and Wildlife Service from transplanting 11,000 diseased bull trout from the Creston National Fish Hatchery to Duck Lake on the Blackfeet Indian Reservation.

On September 8, 1995, the Montana Department of Fish, Wildlife and Parks (FWP) placed the hatchery under quarantine when a routine inspection for whirling disease turned up furunculosis, a bacterial disease that causes boils, lesions and death to trout species. According to State law, the infected fish cannot be transported or transplanted until the State fisheries pathologist and FWP Director Pat Graham approve a hatchery disease-control plan. The Creston hatchery sent its furunculosis control plan to Helena last week.

"We want the federal practice of transporting and stocking diseased trout stopped now," said Steve Kelly of Friends of the Wild Swan. "This federal decision conflict directly with the Governor's policy that it is the State's mission to manage and restore fish populations, and that Montana should not surrender that mission to federal agencies."

The introduction of hatchery-reared bull trout poses another threat to wild fish like this one. File photo.

In April, Creston federal hatchery manager Wade Fredenberg said the agency had no plans to release the fish and that the current stock at Creston was not suited for release. The bull trout at Creston do not meet Montana's Genetic Guidelines for hatcheries, recently adopted by all hatcheries operating in the state.

"Transplanting infected bull trout violates strong recommendations made the Governor's Bull Trout Scientific Group and raises serious questions about the intention of federal agencies participating in Montana's cooperative bull trout recovery effort," said AWR director Mike Bader.

Montana, like most western states, has fought federal intervention in fish and wildlife management. This decision tests that resolve.

Fisher Lawsuit Filed

Two conservation groups filed a federal lawsuit in late September against Interior Secretary Bruce Babbitt and the U.S. Fish and Wildlife Service (FWS) to force a response to their petition to list the fisher as a threatened or endangered species in the lower 48 states. Babbitt and the FWS have not responded to the petition, which was filed by the Predator Project and the Biodiversity Legal Foundation (BLF), in December, 1994. The ESA requires the agency to decide whether a petition is warranted within 90 days of filing.

The fisher is a house cat-sized carnivore, unique to North America, which lives in mature and old growth forests of the north. The predator feeds on hares, squirrels, mice and other rodents, and is a main predator of porcupines. According to the lawsuit, fisher populations historically declined or were wiped-out by overtrapping, habitat destruction due to logging and settlement, and the use of strychnine as a predator control poison. Today, the most immediate threats to fisher populations in the west are the loss and fragmentation of their remaining habitat due to logging and roadbuilding, and incidental trapping.

Jasper Carlton, BLF Director, said "This continued and unconscionable delay is leading to further declines in the fisher's population and destruction of habitat necessary for its survival. Worse yet, delay on the part of the agency has become a pattern, as this is the fifth time the agency has refused to act on a petition of ours." The two groups filed a similar lawsuit in April because the FWS had not responded to their 1994 petition to list the wolverine.

The fisher and wolverine, together with the lynx and pine marten, are referred to as "forest carnivores." Predator Project's Tom Skeele says that "the fact that three of these species have been petitioned for listing under the ESA should raise a red flag in the eyes of the American public: grizzly bears and wolves are not the only "charismatic megafauna" in biological trouble."

ESA Congressional Debate Heats Up

Recent Congressional action on the Endangered Species Act (ESA) reathorization includes the passage of one bill in the House Resources Committee, and the introduction of a new bill in the Senate.

The House Resources Committee in mid October passed the Young-Pombo bill, which would essentially gut the ESA and render it ineffective. In general, it drops the Act's mandate to recover imperiled species, replaces management requirements with incentives, invites greater state control of endangered species issues, and elevates private property considerations to the forefront of listing and recovery decisions.

In passing the measure, the Committee rejected a substitute bill sponsored by Maryland Republican Rep. Wayne Gilchrest. This bill represented a more moderate approach to reauthorizing the Act, but still drew criticism from environmental organizations as it would weaken the Act considerably.

Specifically, the Gilchrest bill would politicize the recovery process by directing the Secretary of Interior to "minimize adverse social and economic consequences" which may result from species protection. It also creates "Recovery Teams" consisting of government and private interests, who will develop Recovery Plans. The bill eliminates the requirement to designate critical habitat concurrent with listing, and it requires a new "peer review" process if there is disagreement over the need to list a species. Finally, the Gilchrest bill creates a new "delisting" obligation, and it also undermines the already ineffective consultation process.

Rumors on Capitol Hill suggest that House Speaker Newt Gingrich (R-GA) favors a more moderate approach, and may push for a third bill to be brought up for a vote on the House floor. This third bill was authored by Rep. Jim Saxton (R-NJ), and lies somewhere between the Gilchrest and Young-Pombo measures. It is not acceptable to the vast majority of the conservation community, but it is unclear whether national organizations like Defenders of Wildlife and the National Wildlife Federation will oppose or support it (they had both endorsed the Gilchrest measure).

In the Senate, Sen. Dirk Kempthorne (R-ID) introduced a bill to reauthorize the Act in late October. His bill, while not as extreme as the one introduced by Sen. Slade Gorton (R-WA), would also cripple the Act. Like many of the other bills on the table, it would eliminate protection for "distinct population segments" of endangered and threatened species. In other words, if grizzly bear populations are healthy in Alaska, then protection of bears in the lower 48 would not be deemed necessary. It would also give the States near-veto power over endangered species listing decisions, and makes the government compensate landowners for actions which might diminish land values.

In the absence of any other measure, Kempthorne's bill will likely become the Senate vehicle for reathorizing the Act. Senator Max Baucus (D-MT) sponsored a bi-partisan bill with Sen. John Chaffee (R-RI) in the last session of Congress, but has said that he does not intend to introduce a bill this session. Chaffee chairs the Environment and Public Works Committee, with jurisdiction over the Act, and Baucus is the ranking Democrat, so a Chaffee-Baucus bill could potentially offer some hope for a strong reauthorization.

Grassroots conservationists have been frustrated by the fact that no bill on the table would strengthen the Act. Strengthening the consultation process, expediting listings of imperiled species, allowing for a multi-species, ecosystem approach and providing citizen enforcement provisions are among the ideas for strengthening the Act.

Endangered species and threatened landscapes define the quality of our lives. Dan Funsch photo.

Black Bear Initiative Launched

Idaho residents have launched a campaign to put a measure on the 1996 ballot to reform black bear hunting practices in that state. To get the measure placed on the ballot, organizers need to collect 42,000 signatures. Petition organizer Kathy Richmond points out that the measure is not an anti-hunting one, but rather, it would reform black bear hunting in three ways:

1. Eliminate the Spring black bear hunt (when sows and cubs emerge from dens).
2. Eliminate the use of baiting stations in black bear hunting.
3. Eliminate the use of hounds in black bear hunting.

Of the 27 states that allow black bear hunting only 6 permit Spring hunting, 10 permit baiting and 19 permit the use of dogs.

For more information, and to help circulate the petition, contact Kathy Richmond at HC 67, Box 680, Clayton, ID 83227-9701, phone 208-838-2431.