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## Going Catatonic

*Emblazoned on everything from license plates to a pro hockey team logo, the Florida panther is a popular symbol of the state's wild beauty. But when it comes to actually heeding sound science to save the endangered species' habitat, the public lacks the will to stop developers.*

**By Ted Williams**

Audubon, September/October 2004

**The Florida panther**, an endangered subspecies of cougar, is a creature of big, wild country. Once it prowled most of our Southeast, but now it's restricted to southwest Florida. There are about 100 left. "This animal is on a collision course with extinction," declared Larry Richardson of the U.S. Fish and Wildlife Service (FWS) on the steaming afternoon of June 21, 2004, as we bounced on a big-wheeled swamp buggy through and past oak hammocks, slash pine, cabbage palm, cypress domes, sloughs, mixed swamps, and sawgrass prairies.

Richardson is the biologist at the 26,400-acre Florida Panther National Wildlife Refuge, 20 miles east of Naples. It's wild country all right, but "big" only by human standards. An adult male panther requires and defends a hunting territory of something like 130,000 acres; a female, 50,000.

Panthers also use nearby tracts of wild land such as the Everglades, Big Cypress National Preserve, Corkscrew Swamp, and Fakahatchee Strand Preserve State Park. But even this isn't enough for recovery, and there are few if any regions of the United States where privately owned wild land is being more rapidly developed.

In southwest Florida nothing stands in the way of a developer—certainly not federal law. If a developer proposes to destroy wetlands in panther country and has not demonstrated proper "avoidance" or "minimization" or offered reasonable "mitigation," the FWS can ask the U.S. Army Corps of Engineers to deny the dredge-and-fill permit. On rare occasions the FWS asks; never does the Corps deny. When Fish and Wildlife finds that a project will jeopardize an endangered or threatened species, it must issue a "jeopardy opinion," which means the project can't happen unless the developer implements "reasonable and prudent alternatives." The last jeopardy opinion the FWS issued for panthers was in 1994.

Two adult male panthers and two females, one with four kittens, had been passing through the refuge, but my chances of seeing one were nil. In 15 years here, Richardson has seen only three panthers he hasn't gone after with dogs or radio-telemetry equipment. Florida panthers closely resemble their western cousins in behavior and appearance, but they're smaller and darker, with longer legs and larger nostrils. They are widely perceived as semimythical; in fact, as recently as the 1970s there was serious debate in the scientific community about whether they still existed.

But panthers are just a little part of what makes panther country so special. They're an "umbrella species." That is, you can't have them without having most everything else. In a clearing, Richardson switched off the engine, and we sipped Gatorade beneath a massive live oak where a butterfly orchid, one of 43 species in the area, was in full bloom. A pileated woodpecker swooped up into the same tree. A ruby-throated hummingbird perched on one of its branches. Great-crested flycatchers shouted all around us. Earlier, we had flushed a barred owl; later, a red-shouldered hawk, a swallow-tailed kite, a limpkin, a doe and her fawn, and a Florida softshell turtle. The refuge supports crested caracaras, sandhill cranes, bald eagles, wood storks, snail kites, all wading birds native to south Florida, river otters, Big Cypress fox squirrels, eastern indigo snakes, and other rarely seen creatures, many on state or federal protection lists.

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Panthers live in what's called the "western Everglades," an apt name when you consider that all the ill-planned, unregulated development that's now costing Americans \$8.2 billion in restoration funds in the eastern Everglades is under way here. "People don't realize that panther habitat produces their groundwater," said Richardson, pointing out that the invasion of cabbage palms in the past 30 years is the result of water-table depletion.

"We know how to save panthers. The problem is convincing the public we need to. This cat has to have habitat. If it doesn't, we're going to keep spending millions on a remnant population. And for what? To look at them in a zoo?"

"We know how to save panthers," he continued. "The problem is convincing the public we need to. This cat has to have habitat. If it doesn't, we're going to keep spending millions on a remnant population. And for what? To look at them in a zoo?" Ten years ago FWS biologist Andy Eller coauthored a habitat-acquisition plan for an additional 370,000 acres. It might have cost \$50 million—not much compared with the billions earmarked for the eastern Everglades. The Clinton administration sat on its hands; the Bush administration said no.

**Eller showed me** the rest of panther country from a Cessna 172. From Naples we flew north past Bonita Springs and Fort Myers—over rock mines and sprawling new developments in various stages, from raw dirt wounds to swaths of fresh asphalt and cement. Many were named for what they are destroying—for example, 584-acre Wildcat Run, 196-acre Southern Marsh, 239-acre Cypress Creek, 1,797-acre Hawk's Haven, 1,000-acre The Habitat, and 1,928-acre Winding Cypress. When Eller reviewed this last project, he determined that the Corps of Engineers had misclassified 370 acres of wetlands as uplands. But the developer complained to his superiors. "I was ordered to back off under threat of insubordination," Eller says. Just since 2000 the FWS has issued 20 biological opinions that have permitted major destruction of panther habitat. About 16,000 acres were destroyed or degraded in 11 of these projects; losses in the remaining 9 weren't calculated.

Eller says he was told to rewrite his biological opinion for Winding Cypress with a "positive" spin and that, when he refused, it was rewritten for him. Recently, when he has set out to write jeopardy opinions, he says he's been told that it's Bush administration policy that they don't get written for any species. Eller's real trouble began after June 25, 2002, the day The Washington Post quoted him as calling the nonenforcement of the Clean Water Act and the Endangered Species Act "heinous." His work before that had always been lauded with good performance reviews; it even earned him a major award from the Collier County Audubon Society. After June 25, 2002, however, he metamorphosed into a slacker, at least according to his superiors. Eller was taken off panthers, placed on a "performance improvement plan," and suspended for five days, allegedly for being late with a biological opinion. "They backdated the start of consultation and gave me roughly 60 days to do what normally takes 135 days," he says.

In January 2004 he was suspended for 14 days, allegedly for being discourteous to a developer's consultant who, according to written testimony by other biologists, had a reputation for being "difficult" and "demanding," and had even threatened a libel suit. According to FWS documents written before anyone could have talked to Eller about the complaint, Eller was said to have been guilty of "verbal abuse," and the consultant had been given an apology for his "actions." But Eller is fighting back. On May 4, 2004, he and the Public Employees for Environmental Responsibility filed a joint complaint under the Data Quality Act of 2000, which requires federal agencies to ensure and maximize "the quality, objectivity and integrity of information" on which they base management. On July 13, Eller was informed in writing that he would be terminated within 30 days.

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Half an hour into our flight the wounds faded and we banked east into agricultural land, mostly orange groves. The conservation strategy by which the U.S. Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission jointly manage panthers assumes that they avoid agricultural lands; therefore no compensation is required when developers convert them to malls, golf courses, and housing units. ("We can make more money growing Yankees," the farmers like to say.) But panthers depend heavily on ag lands. The conservation strategy, based on daytime telemetry data from the early 1990s, assumes that panthers are restricted to forests. But panthers are nocturnal; they bed down in forests to avoid daytime heat, then range broadly through open country at night. The conservation strategy is a developer's dream, reducing compensation by throwing out not just ag lands but forest patches smaller than two square miles. It even throws out forest patches of any size more than 90 meters from another forest, based on the ludicrous fiction that cat behavior doesn't change after sunset. There is no "academic disagreement" here. The scientific community is virtually unanimous in condemning the conservation strategy as a prescription for panther extinction. Yet politicians and developers parade it around, propping it up by the waist, arms, shoulders, and neck, as if it were Leonid Brezhnev.

At length the orange groves gave way to cattle range—open grasslands interspersed with clumps of live oaks and cabbage palms, far more valuable to panthers. But the conservation strategy also absolves developers of providing any compensation when they hack this up. The conservation strategy defines cattle range as "avoided habitat," a term developers quickly seize upon. But it's "avoided" only by day.

From cattle range we swung south over the Big Cypress National Preserve, wet woods of dwarf cypress with taller trees on scattered domes. At Route 75—"Alligator Alley"—Eller pointed out a panther "undercrossing." Highways are probably the second biggest source of panther mortality, after the cats themselves, which kill other cats in defense of shrinking territories.

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With only 100 remaining, the Florida panther is one of the world's rarest and most endangered mammals.

Photograph by T. Kitchin & V. Hurst/NHPA

The underpasses have helped. So has habitat acquisition by the state. But what has made panther recovery biologically feasible is the injection of genes from eight Texas females released in 1995 into a population so inbred that extinction seemed imminent. At the time most Florida panthers had low sperm counts, deformed sperm, poor sperm motility, undescended testicles, cowlicks, heart problems, and right crooks at the tips of their tails. Today the cats have none of those defects. They're bigger and more vigorous. Now when biologists tree them with hounds, they don't crouch and snarl; they leap wildly from tree to tree. In nine years the population has more than doubled. The conservation strategy considers everything in Big Cypress National Preserve and the Everglades south of Route 75 "marginal habitat," but now almost half the panther population occurs there. Before development isolated them, Florida panthers exchanged genes with Texas cats, so "gene-pool pollution" isn't a concern.

Panthers are just a little part of what makes panther country so special. They're an "umbrella species." That is, you can't have them without having most everything else.

"Genetic restoration is an enormous success story that hasn't been told," remarks Jane Comiskey of the University of Tennessee, one of the scientists appointed by the Fish and Wildlife Service in 1999 to a nine-person team charged with drafting a new conservation strategy. "This is at a time when only 9 percent of endangered species are showing improvement and usually for reasons not related to intervention." The fact

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that panther recovery is now feasible biologically, and isn't happening, is precisely what Comiskey, Eller, and Richardson find so maddening.

**"The Fish and Wildlife Service is stonewalling,"** Comiskey told me. Before her team's 12th and last meeting, in August 2002, Comiskey learned through the grapevine that the service had dropped a chapter she had coauthored with famed biologist and panther tracker Roy McBride. The chapter (which offered an alternative view to that of David Maehr, the state's former panther leader on whose research the FWS based its panther-recovery effort) was reinstated after Comiskey threatened to inform peer reviewers about the censorship. But she says the team report now before the public does not include the definition of habitat members agreed to, includes material added by the FWS without the team's consent, and is rife with contradictory statements and uncritical references to Maehr's work. 'They're trying to call it a 'team strategy,' " says Comiskey.

The peer reviewers' comments on the team's draft document, which have been available for almost two years, confirm the main points Comiskey, McBride, and other team members had made about the research on which the recovery effort is based. But the FWS, which seems more interested in protecting itself than panthers, won't allow the team to include the comments.

An independent scientific panel convened by the Florida Fish and Wildlife Conservation Commission and the FWS to vet existing panther literature dismissed the recovery effort as a failure, using words like "untenable," "egregious," "inexcusable," and "bad science" to describe Maehr's research, and noting that he had deleted key data that would have undermined his assertions. (When I asked Maehr about this charge, he said: "We left out animals from the Everglades because we felt this wasn't good panther habitat. At no time has there been intent to go around something by excluding data to get an answer we were looking for.") In the final editing of the panel's report, released in December 2003, "bad science" was dropped, and "particularly egregious conclusions" became "particularly unsound conclusions." But the central message survived. Maehr, himself a member of the team on which Comiskey served, offers this defense: "Much of the research that has been criticized was done in the late 1980s and early 1990s, a time when personal computers were just beginning their rise (i.e., no one in the Naples office of the [Florida Fish and Wildlife Conservation Commission] had a computer assigned personally to them)."

Still, even before Maehr left the commission, there had been "issues about how he handled data," reports Tom Logan, his supervisor at the time. "Obviously those issues have persisted in some of the reviews of his work." Maehr's research for the commission and the conservation strategy it spawned made him especially attractive to developers engaged in destroying panther habitat. Immediately on leaving the commission, he signed on with a consulting outfit.

One of his first assignments was Florida Gulf Coast University, to which real estate and agribusiness mogul Ben Hill Griffin III of Alico Inc. had arranged a donation of 760 acres, thereby vastly increasing the value of the company's 11,000 nearby acres. Eller helped draft a jeopardy opinion. But when Senator Bob Graham (D-FL) forwarded the FWS a letter from Griffin's lobbyist, and when Maehr wrote a letter of support for the developer, Eller's superiors rejected the draft, changing the opinion to "no jeopardy." Now, instead of panthers, the area supports two megamalls, a sports arena, the Ben Hill Griffin Parkway, and three sprawling residential communities with so many golf links the institution—which specializes in, of all things, environmental education—is waggishly called Florida Golf Course University.

In 1999 Eller and his colleagues determined that a three-mile extension of Daniels Road into the Fort Myers airport would destroy or degrade 1,540 acres of panther habitat. The biologists agreed not to write a jeopardy opinion if Lee County would protect just 250 acres of habitat. The county vowed to offer no compensation

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beyond the 69 acres the water management district had already required it to protect as wetlands mitigation. It then got senators Connie Mack (R-FL), Bob Graham, and Slade Gorton (R-WA), plus Representative Porter Goss (R-FL), to write letters to then FWS director Jamie Clark. Consulting for the county and using his discredited research, Maehr proclaimed that only the 69 acres of mitigation was necessary to offset the 1,540-acre loss. Accordingly, the FWS reduced its compensation demands to 94 acres.

By 2001 there were an estimated 78 panthers in Florida. In that year, misquoting the 1989 statement of one of its contracted biologists, the FWS stated that 50 cats were needed for a "minimum population," whatever that meant. The way the FWS saw it, this meant they had 28 extra animals. "No one who understood cats would ever say such a thing, especially when we only had 16 breeding females," Eller told me. "But I was ordered to write this into the biological opinion for a new terminal at the [Fort Myers] airport." Later the state's lead panther biologist, Darrell Land, informed me that the FWS's south Florida field supervisor, Jay Slack, has personally advanced this "absurd" argument to him. When I asked Slack about this, he said he doesn't recall saying such a thing.

**Floridians have come far** since 1885, when they authorized a \$5 bounty for each panther scalp. Now they support protection by purchasing Florida panther license plates. A professional hockey team has taken the name of this erstwhile varmint. The Florida Advisory Council on Environmental Education reports that 91 percent of people it polled want to "save the Florida panther from extinction."

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Just about everyone inside and outside the state loves Florida panthers. Until, of course, they interfere with business; then they're suddenly friendless. Florida panthers aren't just smaller than their western cousins; they're shyer. They don't attack humans, or at least they haven't in recorded history. Yet when a mother and her two kittens were spotted early in 2004 near Pinecrest, the business council of the Miccosukee Indians demanded their removal. As of late June business council chairman Billy Cypress had written 10 voluminous screeds to the National Park Service, the Fish and Wildlife Conservation Commission, the U.S. Fish and Wildlife Service, and even the governor, with copies to sundry politicians. "Our children are afraid to go outside and may become traumatized," he has proclaimed. The cats threaten nothing save, perhaps, business opportunities in the unlikely event that the FWS enforces the law. At this writing, the Fish and Wildlife Conservation Commission and the FWS have obediently tranquilized and relocated one of the kittens—about five months before it would have ceased depending on its mother. Eller, Richardson, and Land are furious, and they agree there's little chance the kitten can survive on its own.

Now that the Florida panther is genetically healthy, the only thing it needs is habitat. Managers have long agreed that real recovery can't happen unless they establish three separate, viable populations in the species' historic range. They had hoped that one of these populations would be in Arkansas. In that state the FWS has identified four enormous blocks of prime habitat—one in the Ozark Mountains, one in the Ouachita Mountains, and two in the southern flatlands. But when panther managers approached the Arkansas Game and Fish Commission, they were told to forget it. "Deer hunting is really big in Arkansas," explains Land.

Panther managers also had hoped to establish a separate, viable population in north Florida. So as an experiment, they placed 19 sterilized Texas cats on the Osceola National Forest in 1988 and 1993. The public was outraged. A father held his daughter in front of TV cameras and gushed about how he hoped to preserve her from being eaten. Deer hunters ranted to an insatiable press, and one, who had drenched himself with

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doe scent, reported that a panther had looked at him hungrily. Protesters held an anti-panther rally, formed an anti-panther organization called Not-in-My-Backyard. At least two cats were shot; one died in a snare. Finally, the state evacuated the survivors, eventually turning them over to a Fort Lauderdale man who sold them across the country. Nine died in transit, and one wound up on a caged "hunting" preserve.

Basically, it comes down to this: Popularity doesn't count for much if you're a Florida panther who doesn't skate. The nation has rallied to the cause of this beautiful and elusive cat, this icon of the Southeast's remnant wild. The vast majority of Americans favor recovery. They just want it done with someone else's money "somewhere else."

*Ted Williams reported on the Florida panther's western cousin in "The Lion's Silent Return," Audubon, November 1994*

### What You Can Do

Join Friends of the Florida Panther Refuge ([www.floridapanther.org](http://www.floridapanther.org)) and the Florida Panther Society ([www.panthersociety.org/panther.html](http://www.panthersociety.org/panther.html)). Educate yourself about panther issues on the same website and by logging on to the state's panther website ([www.panther.state.fl.us](http://www.panther.state.fl.us)). Tax-deductible contributions to panther recovery may be sent to the Wildlife Foundation of Florida, Box 11010, Tallahassee, FL 32302. Endorse checks to "Florida Panther Fund."