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Via Email

January 13, 2025

Ms. Brianna Denoncour
SWAP Coordinator
Division of Fish and Wildlife
New York State Department of Environmental Conservation
625 Broadway
Albany, NY. 12233-4754

Re: Comments on Proposed SGCN List and Species Status Assessments

Dear Ms. Denoncour:

Protect the Adirondacks ("PROTECT") appreciates the opportunity to submit these comments on the draft list of Species of Greatest Conservation Need ("SGCN") and Species Status Assessments ("SSAs") prepared by the Department of Environmental Conservation ("DEC"). These comments supplement PROTECT's previous comments dated June 17, 2024, which are incorporated by reference herein and enclosed for your convenience.

PROTECT respects the work that the Fish and Wildlife Division is undertaking to update the State Wildlife Action Plan ("SWAP"), and we urge DEC leadership to reconsider its exclusion of Canada lynx (*Lynx canadensis*) cougar (*Puma concolor*) and wolf (*Canis lupus*) from the SGCN list. As discussed in detail below, the failure to include these species on the SGCN list sends the wrong message that there is no potential for re-establishing breeding populations of these species in New York. It is also inconsistent with the SSAs prepared by DEC, the prior inclusion of these species in DEC's 2005 Comprehensive Wildlife Conservation Strategy, DEC's endangered species regulations, and the actions of other states that are also updating their SWAPs.

The Proposed SGCN List Sends the Wrong Message

The absence of Canada lynx, cougar and gray wolf from the SGCN list sends the wrong signal to the public that there is no potential for naturally re-establishing breeding populations of these species in New York. PROTECT suggests that it is important for the public to understand that although breeding

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populations of these species may not currently exist in New York, the presence of abundant suitable habitat and prey populations provide the foundation for eventual re-establishment of these species in the State.

Moreover, the failure to include the gray wolf on the SGCN list undermines DEC's recent commendable efforts to prevent the unintentional taking of wolves by hunters and trappers who mistake them for large coyotes. DEC's SSA for the gray wolf, updated in April 2024, recognizes that the greatest threat to wolves in New York is "illegal killing due to misidentification as coyotes" and that "[e]nforcing compliance by coyote hunters with protections on wolves will also be necessary if wolves that disperse into the state are to have a chance to become established." The SSA goes on to note the importance of "providing education that could reduce illegal killing of wolves." Thus, as made clear in the SSA, a crucial component of protecting wolves migrating into New York is educating hunters and trappers that they may encounter a wolf in New York.

DEC has already taken steps to implement the educational measures recommended in the SSA by modifying its website to include information on gray wolves, urging hunters and trappers to exercise care when identifying large canids in the wild, and providing tips on how to distinguish wolves from large coyotes in the wild. We also understand that DEC is in the process of updating the hunter education course to include a module about the differences between wolves and coyotes. Additionally, DEC is requesting trappers to voluntarily contact DEC if a large canid (over 4.5 feet long and over 50 pounds) is found in a trap, and DEC has submitted tissue samples from approximately a dozen large canids for DNA analysis. Unfortunately, excluding the gray wolf from the SGCN undermines these efforts by sending the opposite (incorrect) message—that wolves have disappeared from New York forever—and places wolves at increased risk of being taken illegally when encountered by hunters and trappers.

The SSAs Support Inclusion of These Three Species on the SGCN List

The SSAs prepared by DEC make clear that there is credible potential for Canada lynx, cougar and wolves to re-establish breeding populations in New York. For example, the SSA for Canada lynx acknowledges that at least one breeding population of lynx has been confirmed in Vermont and that there have been numerous confirmed lynx sightings in that state¹. As the SSA acknowledges, "[l]ynx . . . make long distance exploratory movements outside their home range," and it is therefore entirely possible that lynx from Vermont may extend their range into New York in the coming years. In addition, as noted in our previous comment letter, the Canada lynx reintroduction program that occurred in 1989-1991 in the Adirondack Park released 83 animals, of which at least 11 released lynx remain unaccounted for and may still be present in the Park or nearby areas.

The SSA for cougars notes that "[t]he Adirondacks provide the highest quality cougar habitat in New York" and that "the Park would be able to support between 150 and 350 cougars, based on

¹ See <https://vtfishandwildlife.com/press-releases/rare-native-wild-cat-spotted-rutland-county>

habitat quality and estimated white-tailed deer . . . densities.” And the SSA for wolves notes that there have been two documented killings of wild wolves in New York and, as noted in our prior comments, it is therefore inaccurate to claim that wolves have been extirpated (do not exist in a wild state) in New York, particularly in the absence of any systematic monitoring effort focused on ascertaining the presence of wolves in the State. Thus, the SSAs for Canada lynx, cougar and gray wolf include scientific data sufficient to warrant inclusion of these species in the SGCN list.

DEC’s Regulations and the Actions of Other States Support Including Cougar and Gray Wolf on the SGCN List

Cougar and gray wolf are listed by DEC as endangered species pursuant to New York’s endangered species law. Environmental Conservation Law (“ECL”) § 11-0535; *see* 6 NYCRR §§ 182.5(a)(6)(ix),(x) (listing cougar and gray wolf as endangered species in New York). The New York endangered species law defines an “endangered species” as “those species of fish, shellfish, crustacea and wildlife designated by the department . . . as seriously threatened with extinction.” ECL § 11-0535(1). The legal status of these species as endangered in New York provides sufficient ground for including them on the SGCN list to recognize the protection to which they are entitled under the law.

In fact, inclusion of these two species due to their legal status as endangered would be consistent with the actions of numerous other states that as a matter of policy include all state-listed endangered species on their SGCN lists, including Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Pennsylvania and Vermont, among others. We urge DEC to act consistently with these other states by including all state-listed endangered and threatened species, including cougar and gray wolf, on the SGCN list.

Inclusion Would be Consistent With DEC’s 2005 CWCS

Exclusion of Canada lynx, cougar and wolves from the SGCN list would be inconsistent with DEC’s 2005 Comprehensive Wildlife Conservation Strategy (“CWCS”), which included these species. The rationale behind their inclusion was stated by DEC as follows:

The gray wolf, Canada lynx, and Eastern cougar are species historically present in New York but extirpated because of unregulated harvest and habitat change. Current habitat conditions may support the occurrence of gray wolf and cougar, but the social acceptability of doing so must be assessed first. Their listing as SGCN will facilitate that evaluation. Canada lynx may eventually expand to parts of New York from Canada or adjoining states, and if documented, they will need careful monitoring and management. The Algonquin population of gray wolves presently ranges 50 miles north of New York’s border with Canada.² Biologists have already documented the movement of large mammals like moose across this divide in recent years.

² There continues to be an Algonquin population of wolves in Canada near the northern border with New York, and the Adirondack Park is within the normal dispersal range of wolves coming from the Algonquin Park: <https://www.piquenewsmagazine.com/quebec-news/conservationists-eager-to-see-plan-to-save-rare-eastern-wolf-found-in-quebec-ontario-9950661>.

DEC, Comprehensive Wildlife Conservation Strategy (Sept. 2005) at 33.

We suggest that the rationale set forth in the CWCS remains relevant and applicable today, and urge DEC to include Canada lynx, cougar and wolves on the SGCN list.

Conclusion

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on DEC's current draft SGCN list.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", with a stylized flourish at the end.

Christopher Amato
Conservation Director and Counsel

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