

FINAL REPORT

As Required by

THE ENDANGERED SPECIES PROGRAM

TEXAS

Grant No. E-1-9

Endangered and Threatened Species Conservation

**Project 79: Initiation of Safe Harbor Habitat Conservation Planning
For Endangered Felines of South Texas**

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April 30, 2002

FINAL REPORT

STATE: Texas

GRANT NO: E - 1 - 9

PROGRAM TITLE: Endangered and Threatened Species Conservation

PERIOD COVERED: September 1, 1996 - August 31, 1997

PROJECT NUMBER: 79

PROJECT TITLE: Initiation of Safe Harbor Habitat Conservation Planning
For Endangered Felines of South Texas

PROJECT OBJECTIVES:

To provide resources for the initiation of a Safe Harbor HCP addressing habitat enhancement conducive to the recovery of the Ocelot and Jaguarundi in South Texas.

To evaluate the interest in developing a Safe Harbor HCP from the standpoint of private landowners and resource agencies.

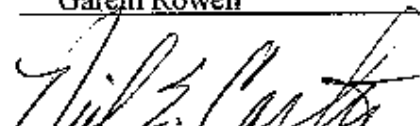
To provide resources that would be available for planning and coordinating the drafting of the documentation, including assistance in developing appropriate NEPA documentation.

PROJECT COSTS: \$7,500

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Date: April 30, 2002

APPROVED BY:


Neil E. Carter

Date: June 12, 2002

Federal Aid Coordinator

Significant Deviation

The Safe Harbor For Endangered Felines of South Texas project was coordinated by Lee F. Elliott in 1996 – 1997 at the Corpus Christi Office of the Resource Protection Division, Texas Parks and Wildlife Department. The project met with several obstacles that prevented staff from being able to make significant progress.

The underlying premise of this project and of “safe harbor” in general is that landowners may be reluctant to participate in habitat maintenance and restoration because of the disincentive provided by the possibility of future restrictions on management options place on their holdings if the habitat becomes occupied by an endangered species such as the Ocelot. While these disincentives appeared to exist in general form in south Texas, as were acknowledged by at least one natural resource management agency in this report, they were not sufficient motivators for landowners to participate in such programs without clear economic incentives.

Five years have passed since this project was discontinued. A renewed effort to implement South Texas Safe Harbor is underway, coordinated by staff of Environmental Defense, Inc. under Texas Section 6 Grant E-32. Landowner awareness of and willingness to contribute to conservation programs has grown considerably in the past several years throughout the state. In addition, private conservation organizations, such as Environmental Defense, are providing outreach opportunities to landowners wishing to pursue conservation-oriented management practices.

Total funds spent on this project were \$7,500.

The following report is based on the project statement and performance reports submitted by Lee F. Elliott between 1996 - 1997.

I. Need

Both the Ocelot (*Felis pardalis*) and the Jaguarundi (*Felis yagouaroundi*) are Federally and State listed as endangered in Texas. The size of the population of Ocelots in Texas is estimated at between 80 and 100 individuals and the last confirmed occurrence of the Jaguarundi was in Cameron County in 1986. The Listed Cats of Texas and Arizona Recovery Plan identifies "habitat loss and fragmentation in Texas, especially along the Rio Grande," as a factor critically threatening the long-term survival of these species in the area (Harwell and Siminski, 1990). Various researchers have estimated that as much as 99% of the native Tamaulipan thorn-scrub upon which the Ocelot depends has been lost from the Lower Rio Grande Valley due to urban and agricultural expansion. Many other species are dependent on the Tamaulipan thorn-scrub required by the Ocelot and Jaguarundi, and activities that lead to enhancement of habitat for the cats, will be beneficial to a myriad of other species in South Texas.

While the Texas Parks and Wildlife Department and the U. S. Fish and Wildlife Service (USFWS) manages some lands to the benefit of these species, the majority of the land within the current known range of these cats is owned and managed privately. Approximately 97% of Texas lands are privately owned and this fact, along with the dependence of these species on appropriate habitat, dictates that any effective plan to recover endangered felines will be dependent on the willing participation of private landowners. Many landowners are already managing their properties in a way compatible with, or in some cases, to the direct benefit of, Ocelot recovery. The Private Lands Initiative is providing several landowners with habitat restoration expertise and resources. Currently, landowners manage their lands with a disincentive to maintain or create habitat favorable to the recovery of these cats because of the potential threat of future mandated-management restrictions imposed by Section 9 of the Endangered Species Act (ESA).

While participation by private landowners is clearly a prerequisite for activities leading to the eventual recovery of these species, these landowners may be reluctant to participate in habitat maintenance and restoration because of the disincentive provided by the possibility of future restrictions on management options placed on their holdings if the habitat becomes occupied by an endangered species such as the Ocelot. In order to alleviate this disincentive and allow landowners to manage their properties in a way that will be conducive to the recovery of the endangered cat species, it is necessary to provide them with a "safe harbor" against legal responsibilities that may occur as a result of immigration of a listed species into the habitat that they have managed in a responsible way.

The "Safe Harbor" program was initiated on April 21, 1995 with the USFWS issuing an incidental take permit for the Sandhills area of North Carolina. Since then, other "Safe Harbor Habitat Conservation Plans (HCPs)" have been initiated, addressing the Attwater's Prairie Chicken, Red-cockaded Woodpecker and other listed species. Under these plans, non-federal landowners would be able to manage their lands to the benefit of listed species without being subject to restrictions of the ESA above those restrictions applicable before enrollment in the program.

The Keystone Dialogue (1995) and others have identified several benefits and concerns associated with the Safe Harbor concept. The benefits include removal of the disincentive to manage habitat to the benefit of endangered species, voluntary maintenance or enhancement of favorable habitat, participation by private landowners in conservation of listed species, and limited cost to the Federal Government. Concerns include the fact that habitat may be temporary since landowners are not obliged to maintain enhanced habitat indefinitely, temporary habitat may form a biological sink potentially drawing animals from adjacent protected area, and "take" may occur with future habitat modification.

While the Safe Harbor process may reduce some disincentives to private landowners, some opponents suggest that the process may not be effective in recovering the targeted species because of the concerns raised above. However, we feel that Safe Harbor will reduce the distrust that many private landowners feel towards ESA activities, reduce the fragmentation of habitats, provide at least temporary increases in available habitat, and may provide an opportunity for future recovery options not currently available. The success of Safe Harbor HCPs has yet to be demonstrated.

II. Objective

The objective of this project was to provide resources for the initiation of a Safe Harbor HCP addressing habitat enhancement conducive to the recovery of the Ocelot and Jaguarundi in South Texas. The intent is to evaluate the interest in developing such an HCP from the standpoint of private landowners and resource agencies. If sufficient interest is generated, the project would provide resources that would be available for planning and coordinating the drafting of the documentation, including assistance in developing appropriate NEPA documentation.

III. Approach

1. *Scope meetings.* Meetings with the Cameron County Coexistence Committee, U.S. Fish and Wildlife Service Ecological Services personnel, private landowners, and other resource professionals (Natural Resources Conservation Service, Extension Agents, Texas Parks and Wildlife Department, etc.) will be arranged to acquire some initial input into the advisability and interest in developing a Safe Harbor HCP in the area. These meetings will be invaluable in developing a scope of work from which to develop the HCP process.

2. *Draft HCP including NEPA requirements.* Upon completion of the scoping meetings; a committee will be formed to develop the HCP. The purpose of this proposal is to direct funds toward providing personnel and equipment to expedite the production of a viable HCP. In that sense, this project should be perceived as an HCP development assistance program with the added benefit of encouraging State participation in the recovery process. One of the difficulties that may be experienced during the development of the proposed Safe Harbor HCP is the definition of "Environmental Baseline" for endangered felines. Safe Harbor HCPs provide assurances to landowners that future land management mandates will not be imposed as long as the environmental baseline at the time of enrollment is maintained. In other words, the worst case scenario (from the perspective of species recovery) would be return of the habitat to its condition at the time of enrollment. In the case of most of the Safe Harbors that have been developed to date, environmental baseline can be determined based on the level of occurrence of the species itself on the property (i.e. surveys for Red-cockaded Woodpeckers). In the case of the endangered felines, determination of occurrence may pose a significant obstacle. One suggestion has been proposed that would base environmental baseline determination on an evaluation of habitat quality (S. Labuda, pers. comm.). The advisability of this suggestion would need to be addressed.

IV. Summary of Work Completed

Meetings were held with appropriate U. S. Fish and Wildlife Service personnel, including staff from the Lower Rio Grande Valley National Wildlife Refuge, Laguna Atascosa National Wildlife Refuge (lead station for endangered feline recovery), and the Endangered Feline Recovery Team. Endangered Feline Recovery Team members include a representative from the Cameron County Extension Service, and a prominent private landowner. Safe Harbor opportunities and options and criteria for baseline determinations were discussed and debated within the context of a Recovery Team meeting. Separate discussions were held with the private landowner representative of the team. Informal discussions were held with Natural Resource Conservation Service (NRCS) personnel, as well as a few other key landowners.

One aspect that was brought out in discussions with private landowners, was the concern that the Safe Harbor would not significantly improve the landowner's position relative to endangered species protection. Individuals with which the Safe Harbor was discussed did not express a great deal of anxiety over habitat protections under the Endangered Species Act. However, discussions with NRCS staff confirmed that such anxiety does exist in the broader landowner community.

Another difficulty that was elucidated in discussions was the need to develop appropriate, reproducible, consistent, and defensible criteria for environmental baseline determination: Options discussed ranged from complete Section 9 exemption for ocelot habitat, to monitoring applicant habitat for cat occupancy (an excessively time-consuming endeavor).

V. Statement of Project Outcome

Adequate progress towards establishment of a Safe Harbor Habitat Conservation Plan was not completed. In order to accomplish an effective HCP for these species, we recommend developing a community-based Steering Committee that can openly discuss the issues from the perspectives of the landowner community, as well as the conservation community. Representatives should, at a minimum, include TPWD, U. S. Fish and Wildlife Service, local extension service, NRCS, conservation organizations such as the National Audubon Society and the Nature Conservancy (both of which have been active in constructing community-based solutions to conservation issues), Cattle Raisers Association and more than one private landowner representative (including prominent and influential landowners who can accurately represent the concerns of others). Dr. Michael Tewes (Caesar-Kleberg Wildlife Research Institute), who has worked on these species for a decade, has expressed an interest in serving in a scientific advisory role for such a committee. Committee goals should maintain a clear goal of accomplishing endangered feline recovery while addressing private landowner concerns.

The need to include private landowners in the recovery of the endangered felines is clear. Financial incentives are available to enhance the efforts of these landowners. A frank and open forum of discussion to address perceived and real disincentives to active participation should be provided.