

## CASE STUDY: STATE AND FEDERAL MANAGEMENT OF THE BOBCAT in the Context of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

### Introduction

The bobcat is an example of a species that did not meet the criteria for CITES listing, which is that its wild populations are adversely impacted by international trade. It was the opinion of the states and of our federal partners that bobcats should never have been listed in the CITES appendices. The bobcat is the most widely distributed and abundant felid in North America. Its range includes all of the contiguous United States and portions of Mexico and Canada. Bobcats are adaptable to a wide range of habitat types. Bobcat populations are thought to be increasing in North America. A 2010 publication reported an estimated 2,352,276 to 3,571,681 bobcats in the United States. (*Roberts and Crimmins 2010*) Bobcat populations are not threatened or endangered nor has this species been throughout recorded history. According to the IUCN's 1996 Wild Cats Status Survey and Action Plan, "The bobcat management programs in the US and Canada are the most advanced management programs for commercial exploitation of any feline furbearers." (*Nowell and Jackson 1996*) The placement of bobcats on Appendix II of CITES was not biologically justified but rather was conducted politically. This CITES listing has resulted in an enormous diversion of resources at both the state and federal level that could have been better utilized for the protection and enhancement of other species of wildlife in greater need.

### The Origin of the CITES Listing

In 1977, two years after CITES went into effect, bobcats were included in Appendix II along with all species of Felidae that had not already been listed. The listing at this time occurred prior to the adoption of a format for proposals, and there was no clarification as to whether bobcats were listed on their own right or for "similarity of appearance" purposes. At CoP4 (1983) the United States delegation introduced a proposal to remove bobcats from Appendix II. Due to lookalike issues the proposal garnered little support and was withdrawn. However, it was agreed by the Conference of the Parties that the bobcat's continued listing was based on Article II Paragraph 26 to ensure effective control of trade in other felids due to "similarity of appearance."

### Development of United States Implementation Procedures

Since CITES was a relatively new treaty, the US Fish and Wildlife Service (USFWS) set about to determine how to best meet the requirements outlined by CITES for "non-detriment" and "legal acquisition" findings for bobcats. Law suits and threats of law suits ensued by animal rights nongovernmental organizations (NGOs) and by state fish and wildlife agencies. In 1977, following the CITES listing of bobcats, The Defenders of Wildlife petitioned the USFWS to add bobcats to the U.S. Endangered Species list.

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The U.S. Endangered Species Scientific Authority (ESSA), in developing their first non-detriment finding of bobcats, convened a working group of scientific experts to develop a procedure. The working group's report contained a concern "that neither states nor recognized authorities on the status of bobcats were consulted before the inclusion of CITES Appendix II." The report recommended "that in the future the U.S. national delegation to conventions affecting wildlife seek adequate prior consultation, ensure flow of information, and invite state and cross-agency participation to guarantee a balanced, biologically sound, and documented presentation by the US delegation." (*Mech 1978*) This recommendation eventually led to greater involvement on the part of state wildlife agencies in CITES processes and more biologically sound decisions.

ESSA's first bobcat finding with regard to "non-detriment" (1977) was not favorable to the states in that ESSA determined that there was insufficient evidence to support

the claim that export of bobcats would not be detrimental to the population. This finding resulted in an immediate prohibition of international trade of an otherwise abundant commercial species.

The following year ESSA initiated state level bobcat quotas and a mandatory tagging program. State wildlife agencies became increasingly concerned about the federal management of a species for which management authority was clearly vested with the states. Bobcats, which were an abundant, well managed species, were effectively being treated as an endangered species. It had become apparent that the CITES treaty had the ability to transfer various management authorities from the states to the federal government.



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## Challenges to the U.S. Procedures

On behalf of the states, the International Association of Fish and Wildlife Agencies (IAFWA) challenged the ESSA on several issues of implementation of the newly designed procedures for administering the CITES obligations related to bobcats. Specifically, IAFWA challenged the ESSA determination that the requirements for export for species listed as "lookalikes" are not different from those that are listed on their own merits as potentially impacted by trade. IAFWA also challenged ESSA's determination that the export authority would be determined on a state by state basis as opposed to a single national authority. The state of Louisiana threatened a lawsuit over the quotas and refused to acknowledge them.

In the end, federal solicitors defended ESSA's evaluation that non-detriment and legal acquisition findings for bobcats would follow the same tract as for species that are threatened by international trade. The result was that individual states would be required to (1) provide sufficient biological justification that their bobcat harvests would not be detrimental to the state's population for the state to participate in the CITES export program, (2) provide annual justification of non-detriment and legal acquisition, and (3) comply with a bobcat tagging program administered by the USFWS. (48 CFR 37494, 18 August 1983)

Challenges subsided and the states reluctantly complied with the federal implementation procedures for a number of years. The process, however, was unnecessarily onerous on the states and the CITES listing had the effect of incorrectly labeling bobcats as a threatened species. In 1996, IAFWA (through their Fur Resources Technical Committee) reopened discussions with the USFWS on streamlining CITES processes related to bobcats. A survey was conducted of state fish and wildlife agencies to determine the problems associated with administration of the CITES procedures. No significant changes resulted from that effort.

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## Attempts to Delist Bobcats from CITES

In 1992 the Association of Fish and Wildlife Agencies (AFWA) created a coordination team to represent the states' interest in matters related to CITES. The CITES Technical Work Group concept resulted in better communication between the states and the USFWS which precipitated a much more efficient working relationship and more influence by states in CITES processes. In 2001 the CITES Technical Work Group initiated a plan to attempt to remove the bobcat from CITES Appendix II. The USFWS Scientific Authority worked in concert with the AFWA team to develop the proposal. The proposal was submitted at CoP 13 (2004) but was withdrawn due to the level of opposition by parties and misinformation circulated at the meeting by animal rights NGOs.

A plan was developed to address animal rights misinformation to return a proposal at CoP 14 (2007). Several measures were taken to enhance the proposal. First, the USFWS worked with the AFWA CITES Work Group to commission a study of trade data conducted by TRAFFIC to determine the degree of lookalike problems between bobcats and other Lynx species. The study demonstrated no significant concerns. Second, AFWA raised funds and supplied technical expertise to Mexico to conduct a bobcat population assessment due to the lack of abundant data in that country. And lastly, AFWA's CITES Technical Work Group testified to a Congressional subcommittee to maintain support for the CITES delisting proposal at the national level. Despite hard work and a well orchestrated plan to dispel misinformation, the proposal failed due primarily to concerns related to differentiation between bobcat pelts and those of other Lynx species not in trade.

Because of the importance of this issue, the CITES Technical Work Group working with our federal partners agreed to address the lookalike issues in order to make another attempt to have bobcats removed from CITES Appendix II at CoP 15 (2010). Additional measures included; (1) developing a Lynx ID manual that could be used by port authorities and law enforcement personnel to distinguish between bobcats and other Lynx species; (2) conducting a range wide bobcat population survey through Cornell University; and (3) conducting a meeting in Brussels, Belgium with Lynx species range countries to attempt to satisfy their concerns about

lookalike issues. The meetings revealed that most cases of illegal poaching of protected Lynx species is related to predator control and not to illegal commercial harvest entered into trade as bobcat. More revealing was the understanding that the true opposition among these EU countries was an anti-trapping agenda, which should not be a consideration for listing or delisting. While the CoP 15 proposal gained a majority vote, it failed to achieve the two thirds margin required for passage.

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## Streamlining U.S. CITES Implementation Procedures

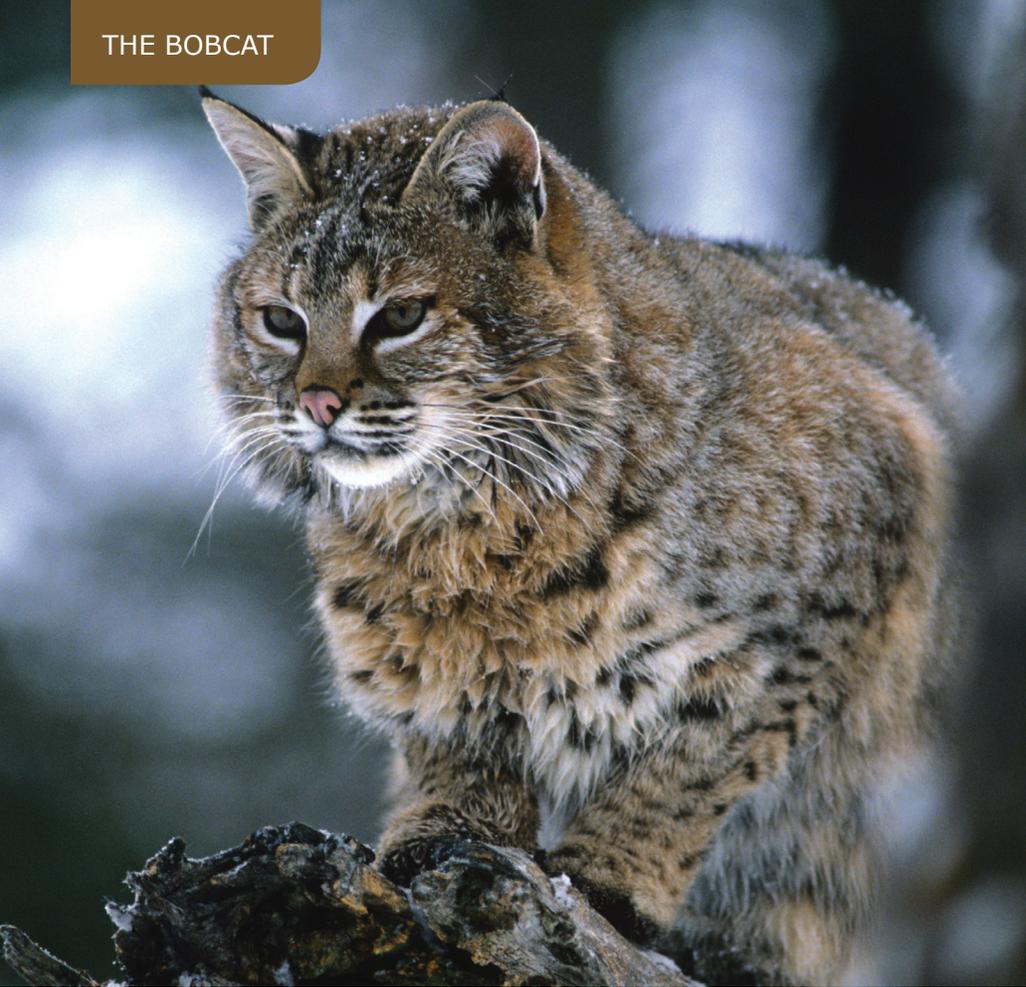
In 2003 an interagency work group was convened to find practical ways to improve the implementation of state and federal obligations outlined by the CITES Treaty for the trade of furbearers, specifically bobcats and river otters. Membership in this group included officials from several state fish and wildlife agencies and USFWS. Law enforcement personnel from state agencies and USFWS were included also. The work group's efforts included numerous meetings in Washington and at various US ports of entry.

AFWA again conducted a survey of states to document problems and concerns related to US CITES implementation procedures for bobcats. The concerns were much the same as those expressed in the 1996 survey. States insisted that the procedures were unnecessarily burdensome and costly to state wildlife agencies and that most procedures imposed by the federal government are not required by the CITES treaty. The majority of states favored eliminating the tagging requirement. Problems cited specific to the tagging requirement included: expense of administrating the program, diversion of resources away from management of species with greater need, difficulties with tag quality and timely production, inconsistent interpretation, and implementation of tagging processes by USFWS. Additionally states remarked that tagging does not meet the intended purpose of verifying legal acquisition. States argued for certification of bobcats at the point of export from the county over certification at the state level.

By 2005 several of the work group's recommendations for streamlining CITES implementation processes were implemented. The most significant of these was the move from state by state bobcat non-detriment findings to a single "range wide" finding on a national basis. It was further agreed that the range wide finding includes all range states, including those not yet approved at the state level.

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Despite the conclusion of the state/federal interagency work group that tagging could be eliminated, the USFWS administration remained reluctant to move the recommendation forward due to concerns by Department of Interior solicitors over the possibility of animal rights sponsored litigation. The state fish and wildlife agency directors sent repeated communications that they believed the risks to be minimal and that they were willing to accept the risks. Ultimately, by 2011, after 8 years of effort, AFWA and the states conceded that persuading the USFWS to eliminate bobcat tagging was not presently achievable.

## Summary

The Convention on Trade in Endangered Species went into effect on July 1, 1975. The intent of the treaty was to offer protection to those species whose populations could be threatened by international trade. However, as is the case with the bobcat, the treaty has been used and often misused to address a variety of political and animal rights agendas. It remains a challenge for the CITES Secretariat and the Parties to keep the treaty centered on science.

Bobcats have been listed in CITES Appendix II for 37 years and remain subject to national and international controls. The listing was initiated for political rather than biological reasons. The species remains listed primarily due to the political difficulties of removing a species from the Appendices. At the fourth meeting of the CoP, the parties agreed that this species is included in Appendix II not because of its own conservation status but rather due to the similarity in appearance of its pelts to other Lynx species listed in Appendix I and II. Despite this designation, the non-detriment and legal acquisition requirements remain the same as for species which are threatened by international trade. Although U.S. CITES implementation processes for bobcats are much improved, they remain unnecessarily burdensome on the states and on the federal government thereby diverting much needed resources from other species in greater need of conservation.

After numerous attempts to remove bobcats from CITES Appendix II, it is apparent that similarity of appearance was not the concern. This is a protectionist issue that has become pervasive in the CITES process.

## Literature Cited

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