

## **Lynx Investigation Summaries, 2002**

### ***Summary of March 6, 2002 GAO Report (GAO-02-488R, 13 pp., <http://www.gao.gov/>): “Unauthorized Hair Samples Submitted for Analysis”***

#### **Congressional Request to GAO:**

1. to investigate allegations that biologists submitted for DNA analysis lynx hair samples that purported to be from the Gifford Pinchot and Wenatchee National Forests, but which were actually obtained from other sources,
2. to determine whether the biologists who participated in the survey communicated about any such submissions, and
3. to investigate a separate allegation that "fake" lynx hair samples were submitted to the laboratory a part of the National Survey for the Ashley National Forest, in Utah.

#### **Key Results of the Investigation:**

- Four unauthorized hair samples, not obtained from the Wenatchee and Gifford Pinchot N.F.'s, were submitted for DNA testing as part of the National Lynx Survey for those forests (three of lynx hair in September and October, 2000, and one of bobcat hair in 1999).
- The biologists maintain that they submitted these samples to test the accuracy of the work performed by the laboratory, although they knew that the protocol for this survey did not provide for such action.
- They stated that they did not have proper authority to make these submissions.
- The lynx survey protocol did not provide procedures to submit hair samples collected outside the survey to test the accuracy of laboratory results.
- Some of the individuals who participated in the unauthorized submissions had discussions about submitting unauthorized samples both prior to and after the submissions.
- The assertion that the lynx survey protocol permitted submissions of control samples to the Montana Laboratory from the Ashley NF was unfounded.

#### **Comments**

The report does not reveal anything significant that we were not aware of - no new unauthorized samples, collaboration, or different motivations than what had been previously reported in the February 19-June 4, 2001 Region 6 Forest Service investigation, or reported from other sources.

The reference on Page 8 to the GAO being “requested to conduct a separate review regarding the Protocol, and generally accepted practices, if any, that should have been applied by the National Survey” is a reference to a requested audit by three members of Congress. An initial phase of the audit will involve a general “scoping” effort on federal agency implementation of the ESA. These ESA-related topics are the focus: use of science and protocols, Section 7 consultation, critical habitat, and how the federal agencies work together to implement the ESA. Later, (summer, 2002?) the GAO and Congressional requesters will meet to decide and prioritize specific areas of work to be covered with the audit. Several federal agencies will be involved, including FWS, NMFS, FS, BLM, NPS and USGS.

***Summary of March 1, 2002, USDI Inspector General Investigation (2 pp.):***  
**“Allegations of Misbehavior on the Part of FWS Employees**  
**Involved with the National Interagency Canadian Lynx Survey”**

The USDI Inspector General (IG) completed an investigation on “Allegations of Misbehavior on the Part of FWS Employees Involved with the National Interagency Canadian Lynx Survey” on March 1, 2002.

In a letter to the Secretary of Interior, the IG concluded they found no criminal intent on the part of the Fish and Wildlife Service biologists, and that the biologists were testing the lab's ability to identify lynx hair. He cited examples of “bad judgment”, including “unauthorized sample submissions by field biologists”, and “failure of Regional and Headquarters managers to recognize the significance of the incident and to execute timely and appropriate responses.”

The IG's letter states: “The policy decision by the FWS to administer ‘corrective action’ in lieu of meaningful punishment displays a cultural bias against holding employees accountable for their behavior.”

The report's conclusion of “an absence of scientific rigor” is referenced only by the statement: “The lack of scientific rigor associated with this survey is best illustrated by the absence of protocols regarding control samples and the failure of managers to provide adequate training to address the pervasive quality assurance concerns of field biologists.”

How the IG arrived at these conclusions is not displayed in the two-page letter. In contrast to such conclusions are the facts that:

- National Lynx Survey protocols exist for both field and laboratory procedures,
- the protocols were both peer-reviewed and successfully tested,
- the protocols do not include a procedure for submitting “control samples”,
- the FWS employees participated in a required lynx survey training session (July, 1999) that covered lynx survey protocols,
- the FWS employees acknowledged they knew that protocols for this survey did not provide for submittal of the samples to test the accuracy of the work performed by the laboratory, and
- the FWS employees stated that they did not have proper authority to make the unauthorized submissions.

The IG included four recommendations to the Secretary, all of which address conduct, discipline or personnel management topics. One of the four also recommends convening a workgroup of internal and external scientists to (in part) “review and make recommendations on how to restore rigorous science to the Endangered Species Program.”

***Summary of April 11, 2002***  
***USDA Inspector General Investigation on Lynx Unauthorized Samples***  
***File Number: SF-801-474 (18 pp.)***

The USDA Inspector General (IG) completed an investigation April 11, 2002 that was conducted “to determine if employees of the Forest Service (FS) and the Washington Department of Fish and Wildlife (WDFW) intentionally submitted unauthorized samples of lynx hair to the University of Montana Carnivore Conservation Genetics Laboratory (CCGL) as part to the 1999 – 2001 National Canada Lynx Survey (NCLS) and made false statements to the CCGL by stating that the sample was collected from a hair snare site set up for the study”.

The investigation found that FS employees did collect a sample of lynx hair from a captive lynx for the purpose of introducing a sample of lynx hair into the year 2000 portion of the NCLS. It found that a FS employee did submit the sample to the CCGL on September 28 or 29, 2000, and labeled that sample as coming from a fictitious survey station. The employees stated that the sample was submitted as a control sample with the intention of testing the ability of the laboratory to accurately identify lynx through DNA testing process being used by the NCLS. They also stated that the formal protocol for the NCLS did not provide for control samples to be submitted.

One of the employees stated that prior to the submission he/she did knew that a Fish and Wildlife Service Forensics Laboratory had independently verified that CCGL DNA testing protocol, but was still not convinced the CCGL could accurately identify lynx hairs. The CCGL was not aware the sample had been submitted until the employee left a message on the voice mail of a FS NCLS survey coordinator on September 29, 2000. The investigation also determined that other FS employees were aware of unauthorized samples being submitted to the CCGL.

A WDFW employee submitted three unauthorized samples of bobcat hair taken from a stuffed bobcat as part of the 1999 portion of the NCLS. In 2000 a WDFW employee submitted one unauthorized lynx hair sample that had been obtained from a captive lynx at a WDFW office. In neither of these submittals did the employee identify to the CCGL that the sample was being submitted as a control sample. WDFW employees were aware that unauthorized samples and accompanying reports had been submitted, but failed to notify the CCGL or NCLS coordinators.

The results of the investigation were discussed with an Assistant United States Attorney, Western District of Washington, who declined criminal prosecution.