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**Via Email**

June 17, 2024

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 Draft Species Status Assessments**

Dear Ms. Denoncour:

Protect the Adirondacks ("PROTECT") appreciates the opportunity to submit these comments on the draft Species Status Assessments ("SSAs") prepared by the Department of Environmental Conservation ("DEC"). PROTECT's comments address the draft SSAs for the following species: Canada lynx (*Lynx canadensis*); cougar (*Puma concolor*); moose (*Alces alces*); wolf (*Canis lupus*); American three-toed woodpecker (*Picoides dorsalis*); Bicknell's thrush (*Catharus bickelli*); Canada jay (*Perisoreus canadensis*); and Red-headed woodpecker (*Melanerpes erythrocephalus*). In addition, PROTECT offers the following general comments.

**General Comments**

PROTECT congratulates DEC on the draft SSAs, which reflect a tremendous amount of research and careful evaluation of the status of numerous fish and wildlife species and the many threats to their continued presence in or repopulation of New York State. It is gratifying to see how seriously DEC takes its obligation to ensure the continued biodiversity of the State's natural resources.

As a general matter, we suggest that DEC consider modifying its definition of "Species of Greatest Conservation Need" ("SGCN"). It appears that the U.S. Fish and Wildlife Service has not promulgated a definition for SGCN and has left the various states to develop their own definitions. New York defines

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SGCN as “species native to New York State that are currently experiencing threats likely to jeopardize the future of their population in New York if action is not taken within the next 10 years.” The definition thus appears to require an existing “population” of a species to exist in the State before it can be included on the SGCN list.

DEC’s SGCN definition is needlessly restrictive because it excludes from eligibility for SGCN species, such as the gray wolf, that may be present in the State but have no verified populations. PROTECT proposes that the definition of SGCN be modified as follows: “Species native to New York State that are currently experiencing threats likely to jeopardize **their presence or** the future **viability** of their population in New York if action is not taken within the next 10 years.” This slight change would enable species such as gray wolf to be included in the SGCN list.

PROTECT also suggests that the SSAs include, where warranted, a recommendation that critically imperiled species be added to New York’s list of endangered and threatened species, 6 NYCRR Part 182. This is an appropriate subject for the SSAs to address because adding a species to the list of endangered and threatened species affords crucial legal protections to individual members of the species as well as to the habitat necessary to their continued survival.

Additionally, PROTECT suggests that DEC update its research and findings for some individual species as noted below.

### **Specific Comments**

#### **Mammals**

Canada lynx: The Species Synopsis in the SSA for Canada lynx states that “Regionally, the only known viable population exists in northern Maine” and that “Lynx are believed to be extirpated from New Hampshire, Vermont, and New York (Kart 2005).” However, the SSA later notes that “Since 2003, nine lynx sightings have been confirmed in Vermont;” that “Since 2012, intensive snow track and remote camera surveys have successfully detected lynx in the Nulhegan Basin;” and that “Reproduction was first documented in 2012 in the Nulhegan Basin” in Vermont. Accordingly, the Species Synopsis should acknowledge that a breeding population of Canada lynx may exist in Vermont.

The SSA acknowledges that there has been no effort to monitor the presence of Canada lynx in New York but nevertheless concludes that Canada lynx are not present in the State. This is a dubious conclusion for two reasons: first, the presence of Canada lynx has been confirmed in Vermont and, as the SSA acknowledges, “[l]ynx . . . make long distance exploratory movements outside their home range.” It is therefore possible that lynx from Vermont may extend their range into New York. In addition, the Canada lynx reintroduction program that occurred in 1989-1991 in the Adirondack Park released 83 animals, of which there were 32 known mortalities during the winters of 1989-1990, and another 30-40 during the winter of 1990-1991. Out of 83 released animals (48 females, 35 males), there have been up to 72 known mortalities, leaving at least 11 released lynx unaccounted for. The SSA should therefore acknowledge the potential presence of Canada lynx in New York from migration into the State from Vermont (or other regional populations) or from surviving individuals (or their offspring) from the reintroduction effort. In

addition, the SSA should commit DEC to undertaking steps, such as those taken by Vermont, to ascertain whether lynx are present in New York, particularly in the Adirondack Park.

Finally, Canada lynx should be included in the SGCN list. It is inconsistent for this species to be included on New York's list of endangered and threatened species, but not included in the State's SGCN list.

Cougar: Cougars fill a critical ecological niche and their presence benefits other species and the health of natural systems as a whole. They also can help help reduce deer populations and, in turn, traffic fatalities and damage to forests. A growing body of science indicates strong habitat suitability for cougar in the Northeast. The SSA notes that “[t]he Adirondacks provide the highest quality cougar habitat in New York . . . Laundré (2013) modeled habitat suitability for cougars within the Adirondack Park and concluded that the Park would be able to support between 150 and 350 cougars, based on habitat quality and estimated white-tailed deer (*Odocoileus virginianus*) densities. Various cervid species are the principal prey of cougars in most of North America . . . but smaller species such as beaver and porcupine, both of which are abundant the Adirondacks, can also form a significant component of their diet.” The SSA further states that a study of the social acceptability of natural recolonization of cougars in the Adirondack Park “found that approximately 70% of respondents were in favor of cougars recolonizing the Adirondacks.”

Given the suitability of habitat and prey densities in the Adirondacks and the general public support for cougars recolonizing the Adirondacks, DEC should commit to undertaking a feasibility study for cougar reintroduction in the Adirondack Park.

As is the case with Canada lynx, cougars should be included in the SGCN list. As noted above, it is inconsistent for this species to be included on New York's list of endangered and threatened species, but not included in the State's SGCN list.

Moose: The SSA states that “[t]he legislature needs to grant NYSDEC that [sic] ability to set a moose hunting season to use as a tool to manage populations should a parasitic epidemic (i.e. winter tick) spreads [sic] into the population. NYSDEC could decrease the likelihood of a winter tick epidemic by artificially suppressing the population at a low density.” This recommendation should be removed from the SSA because there are no data presented in the SSA (or elsewhere) indicating that winter ticks or other parasites are a significant mortality factor for moose in New York. Nor is there any scientific support provided for the proposition that hunting would be an effective means of controlling such parasites in the population.

Moreover, the status assessment provides no population data sufficient to alter DEC's longstanding conclusion that the current moose population is insufficient to support a hunting season. This is particularly crucial given the likelihood that climate change will continue to hinder survival of moose, a fact that the SSA acknowledges (citing a study finding “that temperatures may have a cumulative influence on survival [of moose] and acceleration of current climate trends will result in decreased survival, a decrease in moose density, and ultimately a retreat of moose northward from current distributions”). Consequently, there is no scientific support for the recommendation for legislation authorizing DEC to establish a moose hunting season and it should be deleted from the SSA.

Wolves: Wolves historically inhabited much of the lower 48 United States, but by the early 1900s were extirpated throughout most of their range, including in New York State, due to intentional eradication campaigns. Wolves are ecologically essential for healthy natural ecosystems and can travel hundreds of miles to reestablish territories if sufficient legal protections are in place to allow them safe passage. Over the past few decades, wolves have periodically migrated into New York and neighboring northeastern states from Canada and the Great Lakes. However, due to the similarity in appearance between wolves and large eastern coyotes, migrating wolves have been and will continue to be killed by hunters and trappers in New York. Since wolves are protected as an endangered species under both federal and New York State law, there is a need for the SSA to recommend a monitoring program to assess the presence of wolves in New York and to identify specific on-the-ground actions to prevent future wolf killings due to mistaken species identity.

The SSA states that DEC “is currently seeking reports from trappers and hunters of large (> 50 lbs) canids for evaluation, and is in the process of developing protocols to assess reports of suspect animals.” It would be helpful for the SSA to provide more specific information about this DEC initiative. For example, is this a state-wide effort? How is DEC seeking reports of large canids from hunters and trappers, i.e., how is DEC publicizing this request for such reports? What has been the response so far? What type of “evaluation” is DEC conducting—does this mean DNA analysis? Is DEC recording the dates and locations where the large canids were taken? What is meant by the term “suspect animals?” Does DEC plan to make the data gathered from this initiative readily available to the public on its website? Does DEC intend to include as part of the protocols being developed actions to protect wolves that may be present in a particular area?

The SSA states that “wolves are considered to be extirpated from New York” and goes on to explain that “[e]xtirpation does not mean a species is extinct, but rather that it no longer occurs in a wild state within New York.” However, the SSA later notes that there have been two documented killings of wild wolves in New York (in 2001 and 2021). DEC also recognizes (although it is not noted in the SSA) that a nearly 100-pound wolf was killed in 2005 in Cayuga County, and that DNA tests conducted by U.C. Davis and the U.S. Fish and Wildlife Service determined that the animal was a wolf. It therefore appears 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 to ascertain the presence of wolves in the State. The SSA should include a commitment by DEC to undertake a wolf monitoring program and to prepare and make public a report on the status of wolves in New York based on the monitoring data gathered.

As recognized by the SSA, the greatest threat to wolves in New York is “illegal killing due to misidentification as coyotes” and “[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.” Although the SSA recommends “providing education that could reduce illegal killing of wolves,” this is too vague to translate into meaningful protective measures. The SSA should include specific steps that DEC will take to educate hunters and trappers, including informing them of the legally protected status of wolves, the potential federal and state penalties for the illegal killing of wolves, how to differentiate wolves from Eastern coyotes in the field and, most important, a “when in doubt, leave them be” ethic to err on the side of not killing large wolf-like canids.

The SSA states that “if wolves are unable to return to the state unassisted and public support for restoring wolves to New York is sufficiently high, a manage[d] re-introduction of the species should be considered.” However laudable this goal is, it has no chance of success unless DEC takes the lead in conducting a feasibility study of managed reintroduction, including a public support survey. The SSA should include a commitment by DEC to undertake a feasibility study during the next ten years.

As is the case with Canada lynx and cougar, wolves should be included in the SGCN list. As noted above, it is inconsistent for this species to be included on New York’s list of endangered and threatened species, but not included in the State’s SGCN list.

## **Birds**

American Three-toed Woodpecker: This species exhibits highly specialized habitat preferences. As noted by the SSA, “[t]he population in New York is found in the Adirondack Mountains where breeding occurs in black spruce bogs and mountain spruce-fir forests,” and the species’ “use of old-growth forests and its dependence on ephemeral habitats created by natural disturbances make it a conservation concern.” The SSA further notes that “[t]here are indications of decline in New York: the second Breeding Bird Atlas documented the species in 32% fewer survey blocks than the first Breeding Bird Atlas 20 years previous” and that “[a]lthough trends are difficult to determine with a species having such low detectability, populations at the southern edge of the range are thought to be smaller than they were previously.” Surveys for boreal breeding birds conducted since 2003 at several sites in the Adirondack Park revealed that “detections of American three-toed woodpeckers have been so sparse that it has not been possible to develop reliable estimates of the species’ trend.” In light of its highly specialized habitat preferences and its apparently declining population trend, the SSA should include a recommendation that the American three-toed woodpecker be added to New York’s list of endangered and threatened species.

Bay-Breasted Warbler: The SSA states that this species has a specialized habitat preference insofar as it “nests in mature conifer forest, especially spruce-fir dominated forests.” The SSA notes that this species’ population “declined 0.43% annually from 1996-2012 [in New York], corresponding to an 18% decline,” and that “declines in the New York from 2001-2011 are approximately 5.4% per year, which indicates a 43% decline in abundance over the period.” Although the SSA cautions that “data are sparse and should be interpreted with caution,” it also notes that “[t]here were no observations of bay-breasted warblers breeding in NY from 2020-2023.” Given these sobering population trend data, the SSA should include a recommendation that the bay-breasted warbler be added to New York’s list of endangered and threatened species.

Bicknell’s Thrush: As noted in the SSA for this species, “Bicknell’s thrush is considered vulnerable due to its restricted breeding range in high elevation forests and climate change” and “populations are localized and disjunct [with] breeding occur[ing] only in the Adirondack Mountains and Catskill Mountains.” The SSA further notes that “data from 2001-2020 indicate significant decreases in the Adirondack and Catskill mountains” and concludes that “[i]t is likely that Bicknell’s thrush has one of the lowest populations of birds that occur in the United States and

Canada.” The SSA further notes that “[t]he observed abundance decreased significantly in the Adirondack Mountains by 3.26% annually and a decrease in population of 35% throughout the study period” and that “populations in the Catskills declined 9.03% per year, with a population loss of 70.79%.” Given these population trends, the Catskill population “is predicted to be extirpated around 2050.” Given these factors, the SSA should include a recommendation that Bicknell’s thrush be added to New York’s list of endangered and threatened species.

Red-Headed Woodpecker: The red-headed woodpecker is a locally uncommon resident and breeder in New York. The SSA notes that “[t]hough red-headed woodpeckers have exhibited substantial increases and decreases in population size over the past 200 years, their sharp and severe decline over the last 20 years is alarming.” The SSA further notes that in New York there has been a documented 76% decline in occupancy from 1980-85 to 2000- 05. This species is listed as endangered in Connecticut and threatened in New Jersey and the SSA should recommend that the red-headed woodpecker be added to New York’s list of endangered and threatened species.

On behalf of the Board of Directors of Protect the Adirondacks, please accept our gratitude for the opportunity to share our comments on the draft Species Status Assessments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Amato", written in a cursive style.

Christopher Amato  
Conservation Director and Counsel