

**TESTIMONY OF DARYL DEJOY  
REGARDING ZP 707  
PLUM CREEK PETITION FOR REZONING  
MOOSEHEAD REGION**

**PRESENTED TO THE  
MAINE LAND USE REGULATION COMMISSION**

August 27, 2007

**INTRODUCTION**

My name is Daryl DeJoy. I am the Executive Director of the Wildlife Alliance of Maine. We are an organization whose primary reason for existing is to represent the non-consumptive interests in Maine who participate in wildlife watching and other related activities. According to the 2006 US Census Bureau's Survey on Fishing, Hunting and Wildlife Watching this activity brought in \$817,867,000 to Maine in the year 2006, with a total of 1,015,000 people participating. Wildlife watching includes only people who specifically set out to watch, feed or photograph wildlife. WAM represents a very large constituency in our state.

I am a Registered Maine Guide. I have been a Registered Maine Recreational Guide for 17 years and a Registered Maine Sea Kayak guide for the past 15 years. I also was a Registered Maine Whitewater Guide for 12 years. I have worked around the world as a guide in non-consumptive outdoor activities.

For 10 years I was a licensed Maine wildlife rehabilitator. I rehabilitated small to medium size mammals and released them back into the wild.

Attached is my CV.

I have reviewed the original Plum Creek application to LURC and portions of the revised application including two Natural Resource Evaluations prepared by Woodlot Alternatives.

I also reviewed the following information in preparing my testimony.

The Federal Register/Vol.70, No. 216/Wednesday, November 9, 2005/Proposed Rules.

Concept Plan for Plum Creek's Land in the Moosehead Lake Region, April 2007.

Questions and Answers regarding the Critical Habitat Proposal for Canada Lynx, U.S. Fish and Wildlife Service 2006

Canada Lynx, Species fact sheet, Maine Department of Inland Fisheries and Wildlife, 2003.

A final report of Canada Lynx (*Lynx canadensis*), snow-tracking surveys in the Western Mountains (North), Central Mountains and the Western Foothills (North) Ecoregions in 2005, Allen Starr, Jennifer Vashon, and Shannon Crowley. Maine Department of Inland Fisheries and Wildlife. June 2005.

The final draft of Maine Inland Fisheries and Wildlife application for an Incidental Take Permit for Canada Lynx prepared for USF&W

## CONCERNS WITH PLUM CREEK'S PLAN

A recent series of articles in Maine newspapers, specifically the Bangor Daily News, describes several issues of concern for the Canada Lynx population in Maine. The Canada Lynx is a Federally Listed species under the Endangered Species Act.

One of the primary issues is the drastic decrease of denning/birthing lynx in the current area being studied by the MDIF&W. In the previous two years the biologists involved in the study have found only a single litter of lynx in an area where they previously had been finding eight to nine litters per year. This is a dramatic decrease. The head of the study group, Jennifer Vashon, was quoted in the paper as saying she is concerned that we are seeing a decline in the lynx population.

The second primary concern I have is also documented both by the MDIF&W and articles in the newspaper. Biologists are finding radio-collared lynx dead from a previously unknown cause of lynx mortality. A nematode commonly referred to as lungworm has been found in the dead lynx. There is no study or scientific reference up to this point for lungworm in lynx. Lungworm has been found in bobcats and is also well known to occur in moose populations. Mark McCollough, Endangered Species biologist for US Fish and Wildlife Service in Maine is quoted as saying this is something that needs to be looked at carefully.

I am also concerned about the Canada Lynx from the standpoint of its primary food source, the snowshoe hare. Recent track studies are showing a decrease in the hare populations in the study areas. The snowshoe hare is THE primary food source for lynx and it is widely accepted that a decrease in hare populations will not bode well for resident lynx populations.

My final concern is political as much as scientific. On August 8, 2007, a letter of intent to sue was filed by 21 wildlife conservation organizations across the country concerning, among other things, the Dept. of the Interior's failure to add the lands Plum Creek proposes to develop to the lands protected as Critical Habitat for the Canada Lynx. The lawsuit exists in part because of arbitrary removal of lands identified as critical habitat for lynx after DOI Deputy Assistant Secretary Julie MacDonald, who has since been resigned, met with Plum Creek officials in Washington, then asked USFWS officials to remove said lands from critical habitat designation. I include a map of the lands initially proposed for Critical Habitat designation previous to this Ms. MacDonald's meeting with Plum Creek. Julie MacDonald's training and education was as a civil engineer. She had no training in wildlife biology or any related field and no experience within the field.

In addition, the Department of Interior has said it will undertake a review of the decision to not designate critical lynx habitat in Maine. In fact, on August 27, 2007, a federal judge ordered the USFWS to report by October 15 what the department will do regarding the designation of critical lynx habitat in light of the improper involvement of Julie MacDonald.

One or more of these actions is likely to result in designation of critical habitat in Maine, including the lands proposed for development by Plum Creek in ZP 707.

## CONCLUSION

These concerns, added to the removal of so much prime lynx habitat by Plum Creek, lead me to the following conclusions.

It is my opinion that the plan proposed by Plum Creek is in violation of the Endangered Species Act. They have not prepared an incidental take permit as required by the USFWS when any entity intends to take part in an activity that may “take” a threatened or endangered species. I have enclosed a map from the incidental take permit application from the Maine Dept. of Inland Fisheries and Wildlife. The map clearly shows the historic occurrence of Canada Lynx within the area proposed for development by Plum Creek. “Take” as defined by the Endangered Species Act “means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct”. (ESA-p 5/par.19)

Clearly, to remove the trees, bring in heavy equipment and develop this natural habitat of the Canada Lynx will meet the definition of harass. The Endangered Species Act requires that in order to legally allow this sort of harassment of lynx it is necessary for the landowner to develop a habitat conservation plan and submit it to the USFWS in order to attempt to obtain an incidental take permit. It is my belief that LURC cannot approve the rezoning of lynx habitat being requested by Plum Creek because it would result in a violation of the federal Endangered Species Act (ESA).

## CANADA LYNX REFERENCES

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Defenders of Wildlife. August 8, 2007. Notice of Intent to Sue Over the U.S. Fish and Wildlife Service's Actions Regarding the Canada Lynx. Washington, DC.

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Kennebec Journal. August 1, 2007. Editorial: Canada Lynx Protection. Augusta, ME.

Plum Creek. Concept Plan for Plum Creek's Land in the Moosehead Lake Region. April 2007. Augusta, ME: Maine Land Use Regulation Commission.

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[http://www.maineaudubon.org/habitat/features/Keeping%20Track%20of%20Maine's%20Lynx\\_HABITAT\\_winter2004-05.pdf](http://www.maineaudubon.org/habitat/features/Keeping%20Track%20of%20Maine's%20Lynx_HABITAT_winter2004-05.pdf)

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Maine Department of Inland Fisheries and Wildlife. Application for an Incidental Take Permit for Canada Lynx prepared for USFWS, final draft.

Miller, Kevin. July 30, 2007. Lynx habitat, populations under review. Bangor Daily News

Miller, Kevin. November 9, 2006. Exempted lynx: Feds opt not to designate 'critical habitat' in Maine. Bangor Daily News.

Miller, George and Nick Rahall, II. July 18, 2007. Letter from George Miller and Nick Rahall, Natural Resources Committee, U.S. House of Representatives, to Lynne Scarlett, Deputy Secretary, Department of the Interior regarding questionable activities of Julie MacDonald. Washington, DC.

Portland Press Herald. July 5, 2007. Editorial: Canada lynx litters decline, but nobody really knows why. Portland, ME.

John Richardson. November 9, 2006. Maine rejected for lynx-protection zone. Portland Press Herald.

Richardson, John. September 25, 2006. Landowners fight lynx habitat designation. Portland Press Herald.

Ruediger, Bill et al. 2003. Canada Lynx Conservation Assessment and Strategy. USDA Forest Service Publication R1-00-53, Missoula, MT.

[http://www.fws.gov/mountain%2Dprairie/species/mammals/lynx/ruedigeretal\\_2000.pdf](http://www.fws.gov/mountain%2Dprairie/species/mammals/lynx/ruedigeretal_2000.pdf)

Ruggiero, L.F. et al. 2004 update. Ecology and Conservation of Lynx in the United States. General Technical Report RMRS-GTR-30WWW. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.

[http://www.fs.fed.us/rm/pubs/rmrs\\_gtr030.html](http://www.fs.fed.us/rm/pubs/rmrs_gtr030.html)

Starr, Allen, Jennifer Vashon, and Shannon Crowley. June 2005. Final report of Canada Lynx (*Lynx canadensis*), snow-tracking surveys in the Western Mountains (North), Central Mountains and the Western Foothills (North) Ecoregions in 2005. Augusta, ME: Maine Department of Inland Fisheries and Wildlife.

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<http://www.fws.gov/mountain%2Dprairie/species/mammals/lynx/fCH%20Q&As%20FINAL.pdf>

U.S. Fish and Wildlife Service. November 9, 2005. Federal Register, Vol.70, No. 216, Proposed Rules.

Wyden, Ron. July 20, 2007. Letter from U.S. Senator Ron Wyden to U.S Interior Secretary Dirk Kempthorne regarding intent to reopen Endangered Species Act decisions. Washington, DC.

## **Daryl DeJoy**

Penobscot, Maine

Wildlife Alliance of Maine, Executive Director, 2005-present

NoSnare Task Force, Founder 2001-2003

Licensed Maine Wildlife Rehabilitator, mammals, 1992-2002

Co-host and Co-producer, Ask W.A.M., WERU radio, 2006-present

Registered Maine Recreational Guide, 1990-present

Registered Maine Sea Kayak, 1992-present

Registered Maine Whitewater Guide, 1989-2001

Owner, Expediciones Mundo Perdido, Canaima, Venezuela 1989-1995

Penobscot Solar Design, Owner, 1988-present

Board of Directors, Downeast Family YMCA, 1998-2003



# Federal Register

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Wednesday,  
November 9, 2005

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## Part V

### Department of the Interior

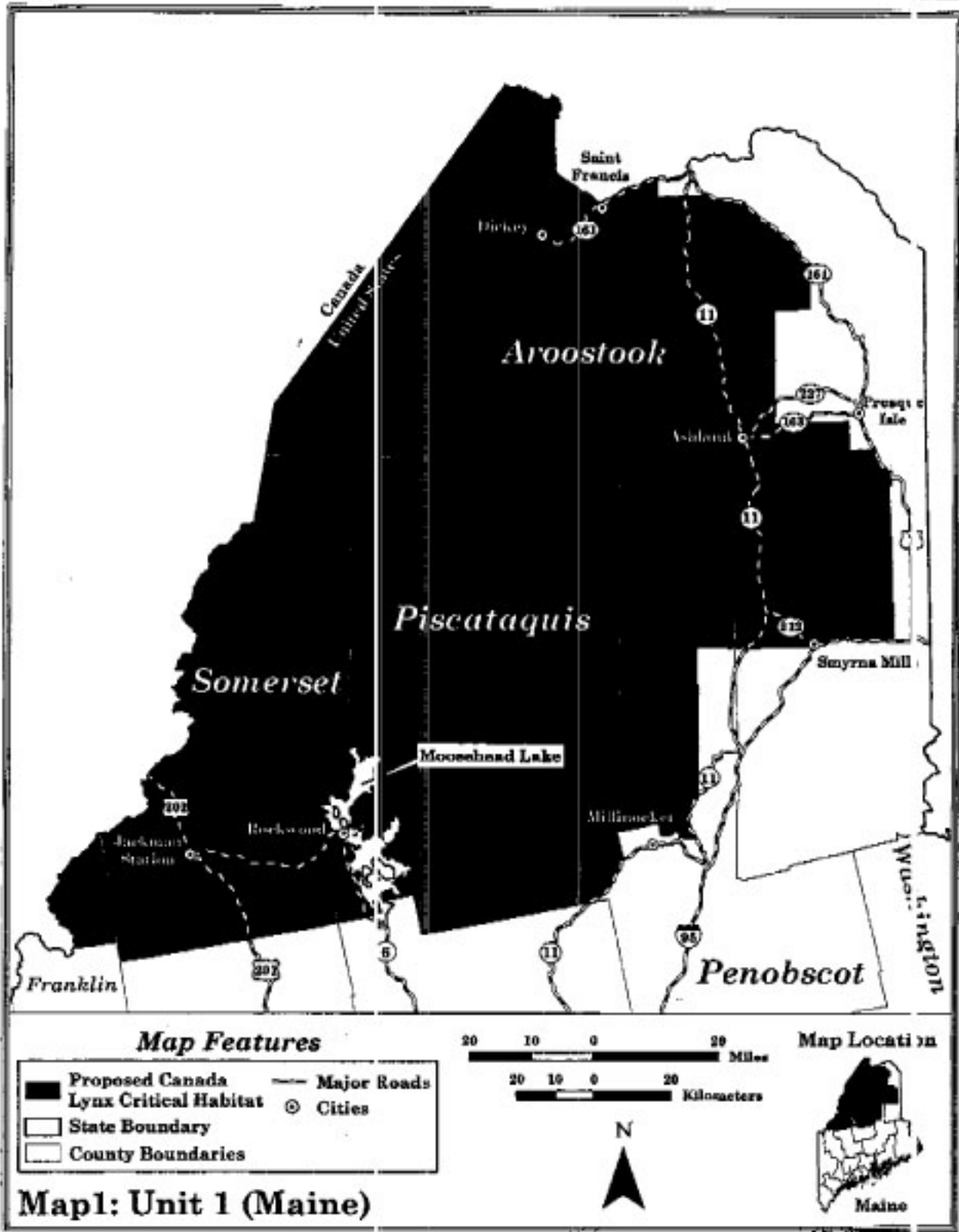
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Fish and Wildlife Service

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50 CFR Part 17

**Endangered and Threatened Wildlife and  
Plants; Proposed Designation of Critical  
Habitat for the Contiguous United States  
Distinct Population Segment of the  
Canada Lynx; Proposed Rule**



243 CODE 4910-05-C

\_\_\_\_\_/s/Daryl DeJoy\_\_\_\_\_8/27/07\_\_\_\_\_





