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Animal Law Committee

ANIMALS v. ANIMALS: A FALSE CHOICE

By: Wendy Anderson and Amy Vaniotis

Harmony with land is like harmony with a friend; you cannot cherish his right hand and chop off his left. That is to say, you cannot love game and hate predators; you cannot conserve the waters and waste the ranges; you cannot build the forest and mine the farm. The land is one organism. Its parts, like our own parts, compete with each other and co-operate with each other. The competitions are as much a part of the inner workings as the co-operations.
– Aldo Leopold

In April 2007, a birder in Galveston, Texas shot a feral cat with a .22-caliber rifle, garnering a felony cruelty indictment and national news media attention. Jim Stevenson told *The Wall Street Journal* and many other news sources that he had to kill the cat to protect piping plovers, an endangered bird species that winters in Galveston and shares the beach with feral cats. See, e.g., Barry Newman, *Bird Lover on Trial for Feline Felony*, WALL ST. J., Sept. 1, 2007, at A1. The claims made by Mr. Stevenson and picked up by the news media reflect an attitude increasingly adopted by birding advocates and some government officials, who sidestep the issue of human destruction to focus on trivial but sensational issues, such as the so-called “cat versus bird” debate. Although everyone agrees that ongoing habitat destruction by humans is the number one cause of species loss, some insist that human activity is too overwhelming to attempt to modify, and that instead energies should be devoted to peripheral distractions. Their argument is this: certain bird species are endangered, and cats kill birds; therefore, killing cats will save those bird species.



Animal lawyers need to be aware of this specious argument: it is shaping public policy and the future of animal protection law, and raises a fundamental question about human complicity and willingness to take responsibility. For centuries, on this continent humans have engaged in market hunting and wholesale lethal animal damage control and, in the case of birds, a vast commercial trade in birds and their feathers. In addition to direct slaughter, humans also harm and kill birds through indirect means: human population is

swelling, human consumption of resources is growing, and habitat destruction continues unchecked. Using a simplistic and fallacious “cat versus bird” argument to set policy comes at the cost of millions of animal lives—not only of the cats who shoulder the blame of our human mistakes, but of the very birds these individuals aim to protect.

Who Killed the Birds?

The news media, birding advocates, and some government officials claim that cat predation is among the top causes of bird species loss. This claim is made possible by a semantic sleight of hand: characterizing “habitat destruction” as a single cause of species loss belies the vast human impact encompassed by the term. Logging, crop farming, livestock grazing, mining, industrial and residential development, urban sprawl, road building, dam building, and pesticide use are just a few of the hundreds or even thousands of activities and damages that are captured by this phrase. Lumping these together as the number one cause of species loss allows issues which are inconsequential in comparison—such as cat predation—to be portrayed incorrectly as falling high on the list of threats.

One leading indicator of human impact is the dramatic population growth in the United States. At the time of the American Revolution, fewer than 4 million humans inhabited the United States; by 1900, that number had grown to over 76 million. See U.S. BUREAU OF THE CENSUS, HISTORICAL STATISTICS OF THE UNITED STATES, COLONIAL TIMES TO 1970, PART 1, A1-A8 (1975), available at <http://www2.census.gov/prod2/statcomp/documents/CT1970p1-02.pdf>. The twentieth century in particular experienced tremendous and unprecedented growth: by the year 2000 the U.S. population had grown 270 percent, to over 280 million people. See U.S. Bureau of the Census, Annual Estimates of the Population of the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2007 (Dec. 27, 2007), <http://www.census.gov/popest/states/tables/NST-EST2007-01.xls>. Current population estimates exceed 303 million individuals. See U.S. Bureau of the Census, U.S. POPClockProjection, <http://www.census.gov/population/www/popclockus.html> (last visited Mar. 19, 2008).

Resource consumption has grown even faster than the population: between 1982 and 1997, while the U.S. population increased by 17 percent, urbanized land increased by 47 percent. See WILLIAM FULTON ET AL., WHO SPRAWLS

MOST? HOW GROWTH PATTERNS DIFFER ACROSS THE U.S.? 1 (2001), available at <http://www.brookings.edu/es/urban/publications/fulton.pdf>. There are few places in the country that have not been transformed by humans. The Natural Resources Defense Council reports that the amount of U.S. land lost to development more than doubled in the three decades between 1960 and 1990, despite the fact that the population increased by less than 50 percent. See National Resources Defense Council, In Contrast: Smart Growth versus Sprawl, <http://www.nrdc.org/cities/smartGrowth/contrast/contr5.asp> (last visited Mar. 19, 2008). Over 430 thousand miles of roads—more than 8 times the mileage of the Interstate Highway System—crisscross U.S. national forests, fragmenting and destroying animal habitat, as well as causing soil erosion, water sedimentation, and mudslides. See Natural Resources Defense Council, Forest Facts, <http://www.nrdc.org/land/forests/fforestf.asp> (last visited Mar. 19, 2008). Beach pollution is a problem in every coastal state; in 2006, pollution resulted in over 25 thousand days of beach closings and warnings at ocean, bay, and Great Lakes beaches. See Natural Resources Defense Council, Beach Pollution, <http://www.nrdc.org/water/oceans/qttw.asp> (last visited Mar. 19, 2008).

These statistics, along with many others, exemplify the devastating impact humans have on the environment, and in turn on many bird and animal species. A 2007 World Conservation Union report indicates that of the close to 8,000 animal species threatened with extinction, 99 percent are at risk from human activities; habitat loss and destruction is the most important threat, affecting 83 percent of the bird species sampled. The World Conservation Union, 2007 IUCN Red List of Threatened Species: Facts About Threatened Species, http://www.iucn.org/themes/ssc/redlist2007/threatened_species_facts_2007.htm (last visited Mar. 19, 2008). Human activities have already led to the extinction of 10 percent of the world’s bird species. See Rodolfo Dirzo and Peter H. Raven, *Global State of Biodiversity and Loss*, 28 ANN. REV. ENVTL. RESOURCES 137, 161 (2003). More than a thousand bird species are listed as threatened today; in the next fifty years, scientists predict at least half of those will become extinct. *Id.* at 162.

In short, the argument made by Mr. Stevenson and like-minded people is grossly misleading: humans, not cats, are responsible for all of the major threats to bird life, and indeed all animal life, today.

Killing Cats Won't Save the Birds

The argument represented by Mr. Stevenson fails in another important way: even if cats *did* pose a real threat to bird species, removing and killing those cats would have no positive effect. Humans created and have maintained an environment that is highly advantageous to cats. Indeed, current scientific research shows that the species *Felis catus*—which includes all cats variously described as domestic, pet, house, stray, and feral—came into existence 8,000 to 10,000 years ago when humans became a sedentary and agricultural species. See Stephen J. O'Brien and Warren E. Johnson, *The Evolution of Cats*, SCIENTIFIC AMERICAN, July 2007, at 74-75. Today, humans maintain an environment which continues to provide abundant food and shelter to cats, but which has become increasingly harmful to other species, such as piping plovers.

Killing a population of any adaptive species, while leaving in place the advantageous habitat in which it thrives, merely leaves an ecological void which is quickly refilled by members of that species. There is grim evidence of this: millions of stray and feral cats are killed every year in U.S. shelters and pounds, as they have been for over a century, yet their populations continue to thrive. See, e.g., National Council on Pet Population Study & Policy, *The Shelter Statistics Survey*, <http://www.petpopulation.org/statsurvey.html> (last visited Mar. 19, 2008). Even if cats did pose a threat to certain bird species, removing those cats—much less allowing individual people to shoot individual cats—would not succeed in protecting the endangered birds.

Looking Forward

What is the fate of endangered bird species, if birding advocates and some government officials continue to focus on irrelevant matters such as cat predation? In the coming

decades, human population and resource consumption are projected to increase unabated. Experts predict the total U.S. population will grow by 27 million people each decade for the next three decades. See ALAN BERUBE AND BRUCE KATZ, *STATE OF THE ENGLISH CITIES: THE STATE OF AMERICAN CITIES*, 26 (2006), available at <http://www.communities.gov.uk/documents/citiesandregions/pdf/153442>. America is becoming increasingly urbanized, and the demand for resources is increasing even faster: researchers at the Brookings Institution predict that by 2030, half of the buildings in which Americans live, work, and shop will have been built after the year 2000. *Id.* at 7. To ignore not only current but projected human population growth, habitat destruction, and consumption guarantees the deaths of millions of birds and animals, and may well cause the extinction of today's endangered species.

The Role of Animal Lawyers

This is merely a taste of the complexity of the issues surrounding species preservation and animal protection. The news media attention to Mr. Stevenson's claims serves as a warning that supposed "animal versus animal" conflicts may well be a diversionary tactic to evade human responsibility. Perhaps the greatest contribution lawyers can make to animal protection is to keep law and policy focused on the real causes of animal death. With skills in factual discovery and critical thinking, lawyers can play a leading role in creating new, more just solutions to the problems caused by human activities—solutions that don't include mass killing, and that allow humans to coexist with the other species on the planet.

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