

Condor Recovery Effort Hurt by Strategy Debate

Interior balks at acquiring key California foraging land; recovery effort marred by divisions on habitat preservation

WHEN the Interior Department announced on 16 December that the six remaining wild California condors would be captured, a hard-fought dispute over how best to ensure the species' immediate survival ended. But shuttling the condors from their perches in California's San Joaquin Valley to breeding programs at the Los Angeles and San Diego zoos is hardly dampening debate on the fate of one of North America's largest land birds.

At issue now is the long-term strategy for *Gymnogyps californianus*, the flagship of the government's endangered species program. The wrangling centers on three matters: the release of condors back into the wild—there are 21 in captivity besides the six slated for capture; restructuring the California Condor Recovery Team, a consortium of federal, state, and private organizations; and acquiring 13,000 acres of prime foraging land known as the Hudson Ranch. The latter now is the most contentious issue because of Interior's refusal to acquire the Hudson Ranch, despite repeated congressional requests and instructions from the House Appropriations Committee.

Contrary to findings by the Fish and Wildlife Service last spring and fall that the Hudson Ranch was a key condor foraging area, the agency now says the land is not essential. Fish and Wildlife's about-face has angered California's congressional delegation, state officials, some government scientists, and environmentalists. Michael Scott, an Interior biologist and departing director of the Condor Research Center at Ventura, says the ranch is the largest foraging area that is free of hunting—lead shot has been implicated as an indirect source of lead poisoning for the scavenger. "The need for the Hudson Ranch," says Brian J. Kahn, vice president of the California Fish and Game Commission, "is totally unaffected by the decision to capture the remaining wild birds."

Nevertheless, Richard N. Smith, the agency's associate director for research, proposes that Interior again defer acquiring the property, contending that the condor can survive without it. "Today and in the next 6 months there will be a sufficient land base to release the condors into." When pressed,

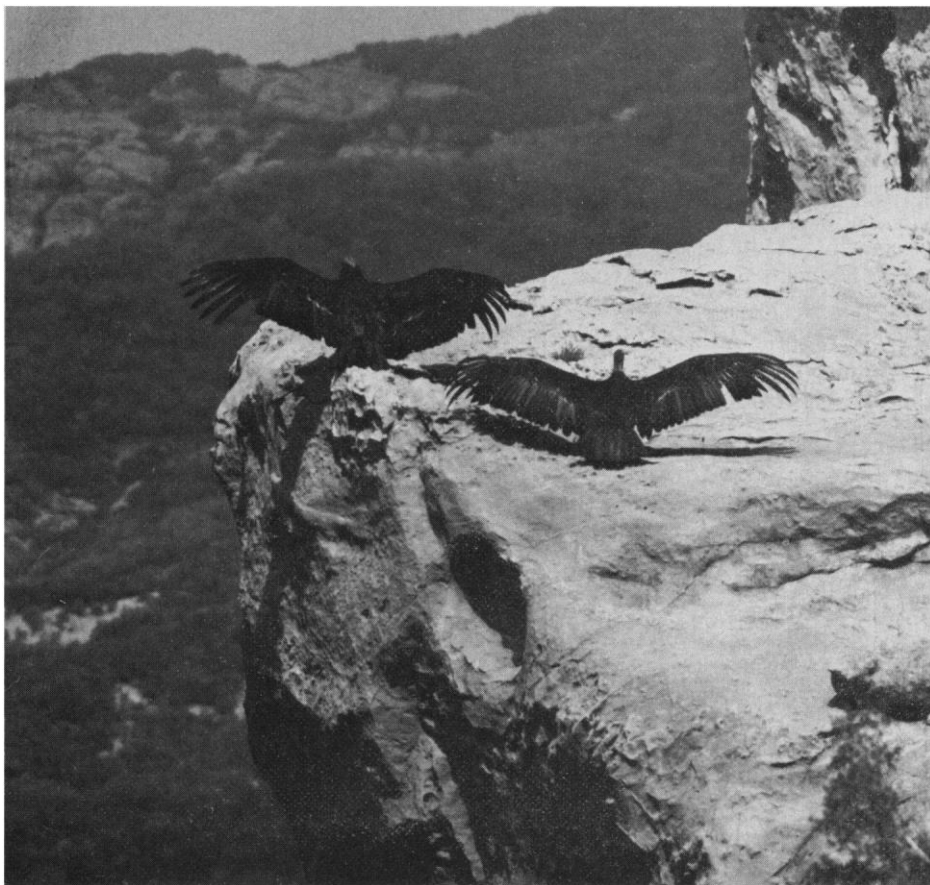
Smith concedes that he "... can't tell what it will be 5 years from now." After negotiating with Interior for several years, Hudson Ranch Associates Ltd., a development company that owns the property, has responded to Interior's latest action by prohibiting Fish and Wildlife Service and Audubon researchers from continuing to use the site as a feeding and release station.

"It's a hell of a sad commentary when such short-term thinking is reflected in Washington," says Kahn. "They have to take a long-term approach if this effort is to succeed." The National Audubon Society may seek a federal court injunction to block the capture of the wild birds, pending Interior's acquisition of Hudson Ranch. Amos Enos, Audubon's director of wildlife pro-

grams, contends that Interior is violating the National Environmental Policy Act and the Endangered Species Act. If the legal challenge fails, Audubon plans to ask Congress to shift to the Agriculture Department's Forest Service the \$9 million that Interior has refused to spend to acquire the Hudson Ranch. The Forest Service could incorporate the property into the neighboring Los Padres National Forest.

Another debate is emerging on whether Andean condors should be introduced into the California condor's territory to permit research to continue on environmental factors that are contributing to the North American bird's high mortality. Officials within Interior and in California Fish and Game Commission favor using the South American condors, but a decision on that is not near. "Unless we do that, I don't think we will get birds back into the wild anytime soon," says Smith of Fish and Wildlife.

Release of three young condors, whose gene lines are already represented by other captive condors, was scheduled for spring. But this is not likely to occur before June, if at all, Interior officials say privately, because of an error by the Los Angeles Zoo. Biologists with Interior's Patuxent Wildlife Research Center in Maryland in October con-



Endangered

The California condor's return to the wild now hinges on successful captive breeding.

firmed reports that since May the birds that were candidates for release had been fed directly by humans, rather than through blinds using condor puppets. As a result they became tame, and biologists determined that deprogramming was essential before releases could occur.

Even if this effort succeeds, the capturing of the six wild adult condors, elevated lead levels in the blood of one bird, and the need for birds to reach age six or seven to reproduce, makes the near-term release of young condors doubtful. Without the presence of adult condors in the wild to guide young birds to historical nesting and feeding sites, the chances of their survival are reduced. "The intention is still to put [birds] in the wild," says Interior's Smith, "But there are major blocks to doing that." Indeed, department and Audubon scientists concede that releases may not occur before 1990.

Absent condors in the wild, sustaining research to understand the species' high-mortality rate could prove difficult in the future. Similarly, it will be harder to protect roosting, nesting, and foraging areas within the condor's 50,000-square-mile range. To accomplish all of this a unified effort is needed, but working relationships among federal and state agencies, the scientific community and the zoos have been strained by years of infighting over whether to capture the wild flock and over program direction. Disgruntled by Interior's failure to consult with members of the recovery team prior to deciding to capture the birds and to defer acquisition of Hudson Ranch, Audubon may pull its professional staff from the recovery effort. Audubon has played a central role in the condor program for years and has persuaded Congress to augment Interior's \$800,000-annual condor budget by \$300,000.

"There has to be a fundamental change in how the program is run," says Enos, who complains that decisions should be made by field biologists, rather than bureaucrats in Washington. Interior's Smith hopes to patch up frayed relations with participants in the condor's recovery, but he wants Interior and the State of California to call the shots. Audubon, the zoos and other participants would serve in an advisory capacity. Just how this power struggle will sort out is uncertain, but "there has to be a more clearly defined sequence of authority," says Lloyd Kiff, director of the Western Foundation for Vertebrate Zoology. "The one thing we always ask is: 'Who is running the condor program?'" The House Appropriations and Merchant Marines and Fisheries Committees are likely to ask the same questions when they probe the condor program in coming hearings. ■ **MARK CRAWFORD**

Briefing:

Appeals Court Backs Gould's Laser Claim

Inventor Gordon Gould won a victory and the Patent and Trademark Office (PTO) suffered a sharp rebuke in a case involving lasers decided in the U.S. Court of Appeals on 19 December.

In the decision, Judge Thomas Flannery wrote that he was "thoroughly convinced that the PTO made several material errors" in denying Gould a patent on the gas-discharge laser. Flannery brushed aside at least 20 times the "erroneous," "mistaken," "irrelevant," and "incorrect" views of the Patent Office and sided with Gould, saying Gould had a fair claim that should be recognized. The Patent Office is normally assumed to be correct, as the court said, unless its "findings are demonstrably inaccurate to



Gordon Gould

First applied for patent in 1959.

a material degree." The judge relied heavily on the testimony of Gould's chief witness, Peter Franken of the University of Arizona at Tucson, in rejecting the government's argument.

In his final judgment, Flannery ordered the government to stop delaying and issue a patent "forthwith." If Gould does win a patent and enforces it, he may collect royalties on the helium-neon laser and the CO₂ laser, a market said to be worth several hundred million dollars. Automated supermarket checkout counters, for example, use helium-neon lasers.

Gould sold shares of his laser claim to

other investors, including his lawyers, to finance his marathon quarrel with the PTO. A majority interest now belongs to the Patlex Corporation of Westfield, New Jersey, whose stock leaped up when the decision was announced. Gould himself calls the ruling a "vindication" and an "exposure of the bureaucratic incompetence" of the PTO. However, Gould warns that the PTO may appeal the decision or insist on a reexamination of the patent. A spokesman for the PTO said no decision has been made as yet.

One remarkable aspect of the case is its longevity, for it reaches back 26 years to the time when Gould first applied for a patent in April 1959. His ideas were incorporated in a military research program for several years after that, in an unsuccessful attempt to produce laser weapons. During this time, Gould's patent application was classified. Later, he began to press for patents that would entitle him to royalties on commercial lasers. His original filing was split into many pieces, the gas-discharge part being one of three major cases still active. The other two deal with optically pumped lasers and industrial applications. Both have been in and out of the courts for years.

Despite Gould's legal success, many other inventors disparage his claims. William Bennett of Yale, coinventor in 1960 of the first working gas-discharge laser (a helium-neon device), says it is "ridiculous" that Gould should be recognized as the inventor of the helium-neon laser. "We saw nothing of Gould's work until much later," says Bennett, "and it contained no useful information whatever." Bennett describes Gould as a "clever guy" who pursued his legal claims assiduously. ■ **ELIOT MARSHALL**

CIA Funding Dispute Claims Victim at Harvard

Since the early 1970's, when the Central Intelligence Agency (CIA) was first implicated in a series of unethical activities and hidden political manipulations, the acceptance of its money by academic researchers has frequently created turmoil on university campuses. Recently, the taint of a CIA connection claimed a new victim, Professor Nadav Safran, a highly regarded scholar and director of the Center for Middle Eastern Studies at Harvard University.

Last August, Safran negotiated a \$45,700 contract with the CIA to organize a small conference on "Islam and Politics in the Contemporary Muslim World." The conference, which attracted such well-known experts as Michael Cook of the University of