



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New England Field Office
70 Commercial St, Suite 300
Concord, NH 03301
<http://www.fws.gov/newengland>



September 12, 2013

Ms. Caitlin Callaghan
Mr. Brian Mills
U.S. Department of Energy
1000 Independence Ave SW
Washington, DC 20585

Dear Ms. Callaghan and Mr. Mills:

The U.S. Fish and Wildlife Service (Service) is proposing to revise the designation of critical habitat for the Contiguous United States Distinct Population Segment (DPS) of the Canada lynx (*Lynx canadensis*). We also propose to revise the boundary of the DPS by doing away with the existing State-boundary-based definition and extending the protections of the Endangered Species Act (ESA) to lynx wherever they occur in the contiguous United States. These revisions are being undertaken to address two court orders resulting from litigation over the 2009 critical habitat designation and a settlement agreement to revise the DPS boundary to include New Mexico.

Critical habitat identifies the geographical areas containing features essential for the conservation of a threatened or endangered species which may require special management considerations or protection. A designation may also include other geographical areas determined to be essential for the conservation of the species. Designation of critical habitat does not affect land ownership or establish a refuge or preserve and has no impact on private landowners who are taking actions on their lands that do not require a Federal nexus such as through funding, permits, or authorization. Critical habitat designation does mean that Federal agencies that undertake, fund, permit, or authorize activities that may affect critical habitat are required to consult with the Service to ensure that such actions do not adversely modify or destroy that habitat.

Canada lynx are highly specialized predators of snowshoe hares and are strongly associated with extensive boreal forest landscapes. Lynx are broadly distributed throughout Alaska and Canada, and the southern periphery of the species' range extends into the northern contiguous United States. The lynx was protected under the ESA in 2000, when it was listed as threatened throughout its range in the contiguous United States. The Service designated critical habitat for the lynx in 2006 and revised the designation in 2009 to include 39,000 square miles of habitat in Maine, Minnesota, Montana, Idaho, Washington, and Wyoming.

The current proposal includes most of the areas designated in 2009 as well as additional private timber lands in northern Maine and Bureau of Land Management and National Park Service lands in northwestern Wyoming. In total, the Service is proposing to designate approximately 41,547 square miles within the boundaries of five critical habitat units in the States of Maine, Minnesota, Montana, Idaho, Washington, and Wyoming. We propose to exclude all Tribal lands and certain other lands covered by lynx conservation plans in Maine, Montana, and Washington. If these exclusions are finalized, 39,632 square miles of lynx critical habitat would be designated, an increase of 632 square miles from the previous designation in 2009. The Service also proposes to revise the definition of the lynx DPS to ensure that all lynx in the contiguous United States are protected under the ESA.

The areas proposed for designation as critical habitat for the lynx are boreal forest landscapes that provide the physical and biological features necessary to support lynx populations over time. These include high densities of snowshoe hares for prey, persistent deep snow that gives lynx a competitive advantage over other hare predators, and denning habitat composed of log piles or wind-thrown trees near hare concentrations. All of the areas proposed for designation have recent verified records of lynx occurrence and reproduction and are, therefore, considered occupied.

In an effort to ensure early coordination with our Federal partners, we specifically seek information on the following:

- any survey data, distribution, or occurrence information you have for Canada lynx; and
- whether you anticipate needing to re-initiate any consultations if critical habitat is revised.

We are also seeking your input on the characterization of the probable impacts as a result of the proposed revised designation of critical habitat. This information will be used to complete the economic analysis of the proposed critical habitat designation. In 2008, we completed a final economic analysis for our 2009 critical habitat designation, which described the Service's position on the potential effects of that designation. Because the current proposal is very similar to the 2009 designation, we anticipate similar impacts, which we will evaluate when we update and revise the 2008 economic analysis. Please review the 2008 final economic analysis at the following address:

http://www.fws.gov/mountain-prairie/species/mammals/lynx/criticalhabitat_files/FinalEconomicAnalysis12182008.pdf
(Accessed September 2013)

In addition, provide suggested revisions or input on the following:

- Is the characterization of your agency's probable projects in the area accurate?
- Is your agency aware of additional probable projects that should be included?
- Is the characterization of the probable project impacts or project modifications consistent with your agency's view?

Ms. Caitlin Callaghan
Mr. Brian Mills
September 12, 2013

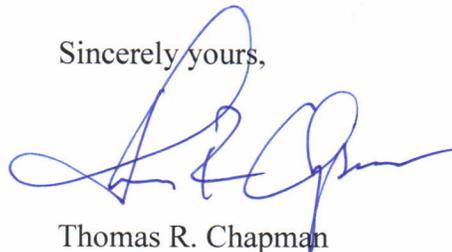
3

- Is the number of new or reinitiated consultations accurate for your agency?
- Have we accurately described the changes in behavior in on-the-ground land management?

We will provide a public notification of our proposed rule for designation of revised critical habitat for the lynx DPS in the *Federal Register*. Any associated proposed rulemakings would include an opportunity for the public to review and comment. At this time, we expect the notification will be delivered to the *Federal Register* in September of 2013. The notice will open a comment period of at least 60 days. We will accept new information throughout this process. Any relevant information on the Canada lynx or its habitat in the contiguous United States should be submitted to the New England Field Office, Attention: Anthony Tur, U.S. Fish and Wildlife Service, 70 Commercial Street, Suite 300, Concord, New Hampshire 03301. All data and information submitted to us, including names and addresses, will become part of the administrative record.

Thank you for your interest in the conservation of threatened and endangered species. We appreciate your willingness to participate in the rulemaking process. For more information about lynx conservation, copies of the proposal, and details on public meetings and hearings, visit the Service's web site at <http://www.fws.gov/mountain-prairie/species/mammals/lynx/>. Copies of the *Federal Register* notice will also be available online or by contacting the Montana Field Office at 406-449-5225.

Sincerely yours,



Thomas R. Chapman
Supervisor
New England Field Office