



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Minnesota-Wisconsin Field Office
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February 25, 2021

Mr. David Olfelt, Director
Division of Fish and Wildlife
Minnesota Department of Natural Resources
DNR Building - 500 Lafayette Road
Saint Paul, Minnesota 55155

Subject: Minnesota Department of Natural Resources Incidental Take Permit Application for Canada Lynx, No. MB682323-0

Dear Director Olfelt:

The U.S. Fish and Wildlife Service (Service) respectfully submits the following comments in response to the Minnesota Department of Natural Resources' (DNR) application for an Incidental Take Permit (ITP) for the incidental take of Canada lynx (*Lynx canadensis*) and Habitat Conservation Plan (HCP) associated with authorized trapping in Minnesota, No. MB682323-0, dated April 21, 2008, and resubmitted on February 7, 2020. The Service committed to providing feedback on the application materials during our January 6, 2021, virtual meeting.

The Endangered Species Act (ESA) [Section 10(a)(2)] and its implementing regulations [50 CFR 17.22(b), 17.32(b), and 222.22] include application requirements and issuance criteria for an HCP submitted in support of an ITP application. Additionally, the Service's revised HCP Handbook ([\[Handbook\]](#) December 21, 2016) describes requirements, procedures, and guidance for HCP development and permit issuance.

Based on the Service's review of the HCP, we recommend the following to ensure the plan provides the best available information and is consistent with current guidance and regulations:

- The HCP should adhere to the revised HCP Handbook
 - Biological goals and objectives should be clearly defined and measurable, and funding estimates and assurances should be provided.
 - The revised HCP Handbook further defines "changed circumstances," which should be reevaluated in the HCP in the context of the refined definition.
- Define the Permit Area where the incidental take authorization would apply (Handbook 6-3) and review and make revisions, if necessary, to the Plan Area where the HCP would apply (Handbook 6-1 to 6-3).
- Update all relevant data and incorporate new information since the HCP was originally submitted in 2008. This includes updating the biological data and population demographics within the Covered Species section. Please consider incorporating the Canada lynx Species Status Assessment (USFWS 2017) by reference.

- Update verified sightings and incidental take records, and include a summary regarding incidental take by trap type, targeted species, timing of take incidents (e.g. seasonal), males versus females, etc.
- Discuss trapping avoidance minimization measures for Canada lynx that have been implemented since the 2008-2009 trapping season and incorporate them into the baseline for the species when evaluating future take predictions. Has there been a reduction in impacts to Canada lynx since the trapping measures have been implemented?
- Provide an analysis of the impact of incidental take to the population. Are Canada lynx adversely affected or is there no demonstrated impact to the population?
- Mitigation or offset of incidental take is not currently specified. In order to find that the HCP meets ITP issuance criteria of minimizing and mitigation to the maximum extent practicable, the HCP will need to explain either how the minimization will fully offset the impact of the incidental take or explain why the mitigation proposed in the HCP is the most the applicant can practically accomplish (Handbook 9-28 to 9-35).

Additionally, we urge the Minnesota DNR to provide a draft environmental assessment (EA) to assist the Service in complying with the environmental review required by the National Environmental Policy Act (NEPA). Federal regulations at 40 CFR 1500 allow applicants to provide a draft EA or retain a contractor to assist the Service in complying with NEPA, and doing so is a common practice for state and private applicants. Providing a draft EA along with an updated HCP will allow the Service to process the application more expeditiously, particularly in light of existing workload and current staffing shortages. Financial assistance to support continued development of the EA and HCP may be available through the Habitat Conservation Planning Assistance grants program. Please let us know if we can provide additional information and answer any questions you might have regarding this funding opportunity.

We appreciate the opportunity to provide these recommendations, and we are happy to work with you and your staff to revise the HCP and ITP application for Canada lynx accordingly, and to identify a schedule for moving forward on the ITP application and NEPA. Should you have any questions, please contact me at 952-252-0092 extension 210 or sarah_quamme@fws.gov.

Sincerely,

Sarah Quamme
Field Supervisor

References

- U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). 2016. Habitat Conservation Planning and Incidental Take Permit Processing Handbook. December 21, 2016. Available online at: <https://www.fws.gov/midwest/endangered/permits/hcp/hcphandbook.html>
- U.S. Fish and Wildlife Service (USFWS). 2017. Species Status Assessment for the Canada lynx (*Lynx canadensis*) Contiguous United States Distinct Population Segment. Version 1.0, October, 2017. Lakewood, Colorado.