

**From:** [Kathleen Rapley](#)  
**To:** [Steve Duke](#); [Hilary Cooley](#)  
**Subject:** Fw: "Take " of Lynx in Idaho  
**Date:** 02/08/2012 02:18 PM

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Kathleen G. Rapley  
Branch Chief-Candidate Conservation and Conservation Partnerships  
U.S. Fish and Wildlife Service-Idaho Fish and Wildlife Office  
1387 S. Vinnell Way, Suite 368  
Boise, Idaho 83709  
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----- Forwarded by Kathleen Rapley/R1/FWS/DOI on 02/08/2012 02:18 PM -----

**Larry  
Salata/RO/R1/FWS/DOI**

02/08/2012 01:15 PM

To Kathleen Rapley/R1/FWS/DOI@FWS  
cc Colleen Henson/R1/FWS/DOI@FWS, Grant  
Canterbury/RO/R1/FWS/DOI@FWS, Jesse  
DElia/RO/R1/FWS/DOI@FWS, Sarah  
Hall/RO/R1/FWS/DOI@FWS, Marilet  
Zablan/R1/FWS/DOI@FWS  
Subject Re: Fw: "Take " of Lynx in Idaho

Kathleen,

The consensus here appears to be that since Maine and Minnesota pursued a HCP permit, that is what Idaho should do. Such an effort may be more efficient based on lessons learned from the Maine and Minnesota experiences.

The use of recovery permits to address this situation doesn't seem appropriate. I will defer to our Division of Recovery staff (Sarah, Jesse, Grant, and Colleen) for the final word on that option.

Larry

▼ [Larry Salata/RO/R1/FWS/DOI](#)

**Larry  
Salata/RO/R1/FWS/DOI**

02/08/2012 08:08 AM

To Kathleen Rapley/R1/FWS/DOI@FWS  
cc Jesse DElia/RO/R1/FWS/DOI@FWS, Sarah  
Hall/RO/R1/FWS/DOI@FWS, Grant  
Canterbury/RO/R1/FWS/DOI@FWS, Colleen  
Henson/R1/FWS/DOI@FWS  
Subject Re: Fw: "Take " of Lynx in Idaho

Hi Kathleen: Steve's email runs the gamut of options w/ one potential exception. If

5 USC 552(b)5

I cc'd others who may have input on this matter.

Larry

▼ Kathleen Rapley/R1/FWS/DOI

**Kathleen  
Rapley/R1/FWS/DOI**

To Larry Salata/RO/R1/FWS/DOI@FWS  
cc

02/06/2012 01:00 PM

Subject Fw: "Take " of Lynx in Idaho

Hi Larry

We have an issue with take of a lynx in Idaho due to a state permitted trapper catching it in a legal trap. The lynx survived. We are getting pressure about what 'coverage' the state has for take of lynx from their action of permitting trapping; they have attempted to use the section 6 cooperative agreement they have with us to justify this coverage but it is clear that the coop agreement without as associated section 7 consultation does not provide coverage. In speaking with Shawn Sartorius (lead for lynx in MT) I learned that Maine and Minnesota both pursued an HCP as part of litigation, but it has been an arduous process. Can you think of any other route that would provide 'coverage' for Idaho? Thanks

Kathleen

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----- Forwarded by Kathleen Rapley/R1/FWS/DOI on 02/06/2012 01:46 PM -----

**Steve  
Duke/ESBO/R1/FWS/DOI**

To Brian T Kelly/R1/FWS/DOI@FWS, Hilary  
Cooley/R1/FWS/DOI@FWS

02/06/2012 01:20 PM

cc Dennis Mackey/ESBO/R1/FWS/DOI@FWS, Kathleen  
Rapley/R1/FWS/DOI@FWS

Subject "Take " of Lynx in Idaho

Brian and Hilary,

Here is what we have found regarding ESA coverage (or lack of) for the take of lynx from otherwise legal state authorized trapping.

- The Section 6 Cooperative agreement as a stand alone document, with IDFG, does not provide ESA take coverage for lynx (or any other listed species) for activities that do not have an "intended benefit to that species..." and where a section 7 consultation has been completed.
- With the exception of Maine and Minnesota (completed or proposed HCPs for this very activity due to litigation), for all remaining States where Canada lynx occur, any incidental take associated with otherwise lawful trapping is not covered.
- There are CFR regulations (50 CFR 17.40) for captive lynx, but not wild lynx. The FWS in its 2000 and 2003 listing determinations described a process for promulgating a 4(d) rule, but has never followed through.
- Options for Idaho: 1) encourage the FWS to propose an expanded 4(d) rule to include permitted trapping; or 2) pursue an HCP with FWS.

Cheers,

Steve

Stephen D. Duke  
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