

From: [Kathleen Rapley](#)
To: [Steve Duke](#); [Hilary Cooley](#)
Subject: Fw: "Take " of Lynx in Idaho
Date: 02/08/2012 11:13 AM

5 USC§552(b)(6)

Kathleen G. Rapley
Branch Chief-Candidate Conservation and Conservation Partnerships
U.S. Fish and Wildlife Service-Idaho Fish and Wildlife Office
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----- Forwarded by Kathleen Rapley/R1/FWS/DOI on 02/08/2012 11:13 AM -----

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

02/08/2012 09:08 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.

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

Larry

▼ [Kathleen Rapley/R1/FWS/DOI](#)

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

02/06/2012 01:00 PM

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

02/06/2012 01:20 PM

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

Assistant State Supervisor - Classification, Recovery and Conservation Partnerships

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