Federal Register

Wednesday,
November 9, 2005

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Contiguous United States Distinct Population Segment of the Canada Lynx; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU52

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Contiguous United States Distinct Population Segment of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the contiguous United States distinct population segment of the Canada lynx (*Lynx canadensis*) (lynx) pursuant to the Endangered Species Act of 1973, as amended (Act). The lynx generally inhabits cold, moist boreal forests in the contiguous United States. In total, approximately 26,935 square miles (mi^2) (69,760 square kilometers (km^2)) fall within the boundaries of the proposed critical habitat designation, in four units in the States of Idaho, Maine, Minnesota, Montana, and Washington. However, we are not proposing to designate all of the area with the boundaries. In particular, we are not including lands within Lynx Analysis Units in the Superior National Forest in Minnesota, because they do not meet the definition of critical habitat pursuant to section 3(5)(A) of the Act as a consequence of the Superior National Forest having amended its Forest Plan to adopt the Lynx Conservation Assessment and Strategy. These lands are not included in the estimated square miles of the proposed designation. In addition, we are not proposing to designate critical habitat on the Federal lands within seven National Forests in Idaho, Montana, and Washington that are covered by the May 2005 Conservation Agreement and therefore do not meet the definition of critical habitat. These lands, however, are included in the estimated square miles of the proposed designation owing to difficulties in obtaining accurate estimates of the area of Federal land within each national forest boundary in a timely manner. This will be corrected in the final designation.

We hereby solicit data and comments from the public on all aspects of this proposal, including data on economic and other potential impacts of the designation. We are also soliciting public comments on inclusion of certain lands in the designation and on the appropriateness of excluding lands from this designation that are covered by management plans that provide for the conservation of lynx and our determination as to whether existing management plans provide special management and protection for lynx habitat. In addition, depending on public comment and our analysis at the time of the final designation, any or all of these Forest Service lands described above may be included in the final designation, and we are specifically seeking comment on whether these lands are covered by the definition of critical habitat and should be included in the final designation.

In the development of our final designation, we will incorporate or address any new information received during the public comment period, or from our evaluation of the potential economic impacts of this proposal. We may revise this proposal to address new information, to exclude areas that may warrant exclusion pursuant to section 4(b)(2) of the Act, or to add in those areas determined to be essential to conservation of the species, but not included in this proposal.

DATES: We will accept comments from all interested parties until February 7, 2006. We will hold public hearings and informational sessions on the following dates: December 7, 2005, (Minnesota); December 14, 2005, (Maine); January 10, 2006, (Montana); and January 18, 2006, (Washington) (see **SUPPLEMENTARY INFORMATION** section, below, for locations and times).

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to Field Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services Office, 100 N. Park Avenue, Suite 320, Helena, Montana 59601.

2. You may submit oral and/or written comments and information at the public hearings (see **SUPPLEMENTARY INFORMATION**, below, for locations and times).

3. You may send comments by electronic mail (e-mail) to *fw6_lynx@fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

4. You may fax your comments to Field Supervisor, U.S. Fish and Wildlife Service, Montana Ecological Services Office at 406–449–5339.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Montana Ecological Services Office at the above address.

FOR FURTHER INFORMATION CONTACT: Lori Nordstrom, Montana Ecological Services Office (address above), telephone 406–449–5225; facsimile 406–449–5339.

SUPPLEMENTARY INFORMATION: Public hearings and informational sessions on this proposal will be held in the following locations:

Maine

Wednesday, December 14, 2005, from 8 to 9 p.m. at the Black Bear Inn and Conference Center, 4 Godfrey Drive, Orono, Maine. The hearing will be preceded by an informational session from 7 to 8 p.m.

Minnesota

Wednesday, December 7, 2005, from 7:30 to 9 p.m. at The Inn on Lake Superior, 350 Canal Park Drive, Duluth, Minnesota. The hearing will be preceded by an informational session from 6 to 7:30 p.m.

Montana

Tuesday, January 10, 2006, from 6 to 8 p.m. at Westcoast Kalispell Center, 20 North Main Street, Kalispell, Montana. The hearing will be preceded by an informational session from 4:30 to 6 p.m.

Washington

Wednesday, January 18, 2006, from 7 to 8:30 p.m. at Methow Valley Community Center, 201 South Methow Valley, Hwy 20, Twisp, Washington. The hearing will be preceded by an informational session from 5 to 6:30 p.m.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Maps of the proposed critical habitat are available for viewing by appointment during regular business hours at (1) The Montana Ecological Services Office (see **ADDRESSES**); (2) the Service offices identified in the Section 7 Consultation section below (Maine Field Office (Old Town, ME), Twin Cities Field Office (Bloomington, MN), and the Upper Columbia River Basin Office (Spokane, WA)); or (3) the Internet at *http://*

mountain-prairie.fws.gov/species/mammals/lynx/.

On the basis of public comment, during the development of the final rule we may find, among other things, that areas proposed are not essential to the conservation of the species or do not require special management considerations or protection, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion, and in all of these cases, this information will be incorporated into the final designation. Final management plans and data supporting their effectiveness that address the conservation of the lynx must be submitted to us during the public comment period so that we can take them into consideration when making our final critical habitat determination.

Comments Are Invited Specifically Concerning

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including, but not limited to, whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of lynx habitat in the contiguous United States, and what occupied habitat has features that are essential to the conservation of the species and why and what unoccupied habitat is essential to the conservation of the species and why;

(3) Comments or information that may assist us with identifying or clarifying the Primary Constituent Elements (PCEs);

(4) Land use designations and current or planned activities in areas proposed as critical habitat and their possible impacts on proposed critical habitat;

(5) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(6) As discussed in this proposed rule, we are considering whether some of the lands we have identified as having features essential for the conservation of the lynx should not be included in the final designation of critical habitat if, prior to the final critical habitat designation, they are covered by final management plans that incorporate the conservation measures for the lynx (*i.e.*, the Lynx Conservation Assessment and Strategy (LCAS) (Ruediger *et al.* 2000), or comparable). In particular, seven National Forests and one Bureau of Land Management (BLM) district are in the process of revising or amending their Land and Resource Management Plans (LRMP) to provide measures for lynx conservation. It is anticipated that all of these plans will be complete prior to promulgation of the final critical habitat designation. As a result, all National Forest and BLM plans would have measures that provide for conservation of lynx, and consequently will not be in need of special management or protection.

Currently, National Forests that have not revised or amended their LRMPs operate under a Conservation Agreement with the Service in which the parties agree to take measures to reduce or eliminate adverse effects or risks to lynx and its occupied habitat pending amendments to LRMPs. The LCAS is a basis for implementing this Agreement.

In addition, we will be evaluating the adequacy of existing management plans to conserve lynx on lands that are designated wilderness areas or National Parks, as discussed in this proposed rule.

We specifically solicit comment on whether such areas meet the definition of critical habitat based on:

(A) Whether these areas contain features essential to the conservation of the lynx;

(B) The adequacy of these management plans or the Conservation Agreement to provide special management and protection to lynx habitat;

Any of these lands identified above may, if appropriate, be included in the final critical habitat designation, even if not proposed for designation in this notice.

(7) Our proposal to not include tribal lands in the Maine and Minnesota units under the Secretarial Order Number 3206. The size of the individual reservation lands in the Maine and Minnesota units is relatively small. As a result, we believe conservation of the lynx can be achieved by limiting the designation to the other lands in the proposed units (see ''Relationship of Critical Habitat to Tribal Lands'' below).

(8) Whether lands in three areas are essential for the conservation of the species and the basis for why they might be essential. These areas are: (a) The Greater Yellowstone Ecosystem (Wyoming, Montana, and Idaho); (b) the ''Kettle Range'' in Ferry County, Washington; and (c) the Southern Rocky Mountains.

(9) How the proposed boundaries of critical habitat units could be refined to more closely conform to the boreal forest types occupied by lynx. Maps that accurately depict the specific vegetation types on all land ownerships were not readily available. Additionally, even if accurate, detailed vegetation maps were available, we were unsure how to delineate and describe critical habitat boundaries that solely encompassed lands containing the features essential to the conservation of the lynx.

(10) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to *fw6_lynx@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: lynx comments'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Montana Ecological Services Office at telephone number 406–449–5225.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Designation of Critical Habitat Provides Little Additional Protection to Species

In 30 years of implementing the Act, the Service has found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. The Service's present system for designating critical

habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs). The Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Endangered Species Act

While attention to and protection of habitat is paramount to successful conservation actions, we have consistently found that, in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation resources. Sidle (1987) stated, ''Because the Act can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7.'' Currently, only 466 species or 35 percent of the 1,268 listed species in the United States under the jurisdiction of the Service have designated critical habitat.

We address the habitat needs of all 1,268 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, and the section 10 incidental take permit process. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

We note, however, that the August 6, 2004, Ninth Circuit judicial opinion, (*Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service*) found our definition of adverse modification invalid. In response to the decision, the Director has provided guidance to the Service based on the statutory language. In this rule, our analysis of the consequences and relative costs and benefits of the critical habitat designation is based on application of the statute consistent with the 9th Circuit's ruling and the Director's guidance.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court ordered designations have left the Service with almost no ability to provide for adequate public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals due to the risks associated with noncompliance with judicially-imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, is very expensive, and in the final analysis provides relatively little additional protection to listed species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA). None of these costs result in any benefit to the species that is not already afforded by the protections of the Act enumerated earlier, and they directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on the lynx, refer to the final listing rule published in the **Federal Register** on March 24, 2000 (65 FR 16052), and the clarification of findings published in the **Federal Register** on July 3, 2003 (68 FR 40076).

Canada lynx are medium-sized cats, generally measuring 75 to 90 centimeters (cm) (30 to 35 inches (in)) long and weighing 8 to10.5 kilograms (18 to 23 pounds) (Quinn and Parker 1987). They have large, well-furred feet and long legs for traversing snow; tufts on the ears; and short, black-tipped tails.

Lynx are highly specialized predators of snowshoe hare (*Lepus americanus*) (McCord and Cardoza 1982; Quinn and Parker 1987; Aubry *et al.* 2000). Lynx and snowshoe hares are strongly associated with what is broadly described as boreal forest (Bittner and Rongstad 1982; McCord and Cardoza 1982; Quinn and Parker 1987; Agee 2000; Aubry et al. 2000; Hodges 2000a, b; McKelvey et al. 2000b). The predominant vegetation of boreal forest is conifer trees, primarily species of spruce (*Picea* spp.) and fir (*Abies* spp.) (Elliot-Fisk 1988). In the contiguous United States, the boreal forest types transition to deciduous temperate forest in the Northeast and Great Lakes, and to subalpine forest in the West (Agee 2000). Lynx habitat can generally be described as moist boreal forests that have cold, snowy winters and a snowshoe hare prey base (Quinn and Parker 1987; Agee 2000; Aubry *et al.* 2000; Buskirk *et al.* 2000b; Ruggiero *et al.* 2000).

Snow conditions also determine the distribution of lynx (Ruggiero *et al.* 2000). Lynx are morphologically and physiologically adapted for hunting snowshoe hares and surviving in areas that have cold winters with deep, fluffy snow for extended periods. These adaptations provide lynx a competitive advantage over potential competitors, such as bobcats (*Lynx rufus*) or coyotes (*Canis latrans*) (McCord and Cardoza 1982; Buskirk et al 2000a; Ruediger *et al.* 2000; Ruggiero *et al.* 2000). Bobcats and coyotes have a higher foot load (more weight per surface area of foot), which causes them to sink into the snow more than lynx. Therefore, bobcats and coyotes cannot efficiently hunt in fluffy or deep snow and are at a competitive disadvantage to lynx. Long-term snow conditions presumably limit the winter distribution of potential lynx competitors such as bobcats (McCord and Cardoza 1982) or coyotes.

Because of the patchiness and temporal nature of high-quality snowshoe hare habitat, lynx populations

require large boreal forest landscapes to ensure that sufficient high-quality snowshoe hare habitat is available at any point in time and to ensure that lynx may move freely among patches of suitable habitat and among subpopulations of lynx. Populations that are composed of a number of discrete subpopulations, connected by dispersal, are called metapopulations (McKelvey *et al.* 2000c). Individual lynx maintain large home ranges (reported as generally ranging between 31–216 km^2 [12–83 mi^2]) (Koehler 1990; Aubry *et al.* 2000; Squires and Laurion 2000; Squires *et al.* 2004b; Vashon *et al.* 2005a). The size of lynx home ranges varies depending on the abundance of prey, the animal's gender and age, season, and the density of the lynx population (Koehler 1990; Poole 1994; Slough and Mowat 1996; Aubry *et al.* 2000; Mowat *et al.* 2000; Vashon *et al.* 2005a). When densities of snowshoe hares decline, for example, lynx enlarge their home ranges to obtain sufficient amounts of food to survive and reproduce.

In the contiguous United States, the boreal forest landscape is naturally patchy and transitional because it is the southern edge of the boreal forest range. This generally limits snowshoe hare populations in the contiguous United States from achieving densities similar to those of the expansive northern boreal forest in Canada (Wolff 1980; Buehler and Keith 1982; Koehler 1990; Koehler and Aubry 1994). Additionally, the presence of more snowshoe hare predators and competitors at southern latitudes may inhibit the potential for high-density hare populations (Wolff 1980). As a result, lynx generally occur at relatively low densities in the contiguous United States as compared to the high lynx densities in the northern boreal forest of Canada (Aubry *et al.* 2000) or the densities of a species such as the bobcat, which is a habitat and prey generalist.

Lynx are highly mobile; long-distance movements (greater than 100 km (60 mi)) are characteristic (Aubry *et al.* 2000; Mowat *et al.* 2000). Lynx disperse primarily when snowshoe hare populations decline (Ward and Krebs 1985; O'Donoghue *et al.* 1997; Poole 1997). Subadult lynx also disperse even when prey is abundant (Poole 1997), presumably to establish new home ranges. Lynx also make exploratory movements outside their home ranges (Aubry *et al.* 2000; Squires *et al.* 2001).

The boreal forest landscape is naturally dynamic. Forest stands within the landscape change as they undergo succession after natural or human-caused disturbances such as fire, insect epidemics, wind, ice, disease, and forest management (Elliot-Fisk 1988, Agee 2000). As a result, lynx habitat within the boreal forest landscape is typically patchy because the boreal forest contains stands of differing ages and conditions, only some of which are suitable as lynx foraging or denning habitat at any point in time (McKelvey *et al.* 2000a; Hoving *et al.* 2004).

Snowshoe hares comprise a majority of the lynx diet (Nellis *et al.* 1972; Brand *et al.* 1976; Koehler 1990; Apps 2000; Aubry *et al.* 2000; Mowat *et al.* 2000; von Kienast 2003; Squires *et al.* 2004b). When snowshoe hare populations are low, female lynx produce few or no kittens that survive to independence (Nellis *et al.* 1972; Brand *et al.* 1976; Brand and Keith 1979; Poole 1994; Slough and Mowat 1996; O'Donoghue *et al.* 1997, Aubry *et al.* 2000; Mowat *et al.* 2000). Lynx prey opportunistically on other small mammals and birds, particularly during lows in the snowshoe hare population, but alternate prey species may not sufficiently compensate for low availability of snowshoe hares, resulting in reduced lynx populations (Brand *et al.* 1976; Brand and Keith 1979; Koehler 1990; Mowat *et al.* 2000).

In northern Canada, lynx populations fluctuate in response to the cycling of snowshoe hare populations (Hodges 2000a; Mowat *et al.* 2000). Although snowshoe hare populations in the northern portion of their range show strong, regular population cycles, these fluctuations are generally much less pronounced in the southern portion of the range in the contiguous United States (Hodges 2000b). In the contiguous United States, the degree to which regional local lynx population fluctuations are influenced by local snowshoe hare population dynamics is unclear. However, it is anticipated that because of natural fluctuations in snowshoe hare populations, there will be periods when lynx densities are extremely low.

Because lynx population dynamics, survival and recruitment are closely tied to snowshoe hare availability, snowshoe hare habitat is a component of lynx habitat. Lynx generally concentrate their foraging and hunting activities in areas where snowshoe hare populations are high (Koehler *et al.* 1979; Ward and Krebs 1985; Murray *et al.* 1994; O'Donoghue *et al.* 1997, 1998). Snowshoe hares are most abundant in forests with dense understories that provide forage, cover to escape from predators, and protection during extreme weather (Wolfe *et al.* 1982; Litvaitis *et al.* 1985; Hodges 2000a, b). Generally, hare densities are higher in regenerating, earlier successional forest stages because they have greater understory structure than mature forests (Buehler and Keith 1982; Wolfe *et al.* 1982; Koehler 1990; Hodges 2000b; Homyack 2003; Griffin 2004). However, snowshoe hares can be abundant in mature forests with dense understories (Griffin 2004).

Within the boreal forest, lynx den sites are located where coarse woody debris, such as downed logs and windfalls, provides security and thermal cover for lynx kittens (McCord and Cardoza 1982; Koehler 1990; Slough 1999; Squires and Laurion 2000; J. Organ, Service, in litt. 2001). The amount of structure (*e.g.,* downed, large woody debris) appears to be more important than the age of the forest stand for lynx denning habitat (Mowat *et al.* 2000).

Previous Federal Actions

For more information on previous Federal actions concerning the lynx, refer to the final listing rule published in the **Federal Register** on March 24, 2000 (65 FR 16052), and the clarification of findings published in the **Federal Register** on July 3, 2003 (68 FR 40076). As a result of litigation from Defenders of Wildlife, *et al.,* the U.S. District Court for the District of Columbia instructed us to propose critical habitat by November 1, 2005, and to issue a final rule for critical habitat by November 1, 2006. This proposal has been completed in compliance with the Court order.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 of the Act requires consultation on Federal actions that are

likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands.

To be included in a critical habitat designation, the habitat within the area occupied by the species at the time of listing must first have features that are ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (*i.e.,* areas on which are found the primary constituent element, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2).) Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species at the time of listing.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best scientific information available at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining critical habitat. We have reviewed the approach to the conservation of the lynx provided in a recovery outline (Service 2005); information from State, Federal and Tribal agencies; and information from academia and private organizations that have collected scientific data on lynx.

The Service recently completed a recovery outline for the lynx (Service 2005). Recovery outlines are brief, internally-developed documents intended as preliminary strategies for conservation of listed species until a formal recovery plan is completed (F. Dunkle, USFWS, in litt. 1989). Development of a formal recovery plan for lynx has not yet begun. The lynx recovery outline was prepared by Service staff experienced in lynx conservation and/or recovery planning under the Act and two lynx experts from the U.S. Forest Service (USFS). The lynx recovery outline presents current understandings of historical and current lynx distribution, ecology, and population dynamics. The outline introduces concepts regarding the relative importance of different geographic areas to the persistence of lynx in the contiguous United States, identifying areas as either core, provisional core, secondary or peripheral based on lynx records over time and evidence of reproduction. Additionally, the outline describes preliminary recovery objectives and actions.

We also reviewed available information that pertains to the habitat requirements of this species and its principal prey, the snowshoe hare. This included data in reports submitted by researchers holding recovery permits under section 10(a)(1)(A) of the Act; research published in peer-reviewed articles, presented in academic theses, agency reports and unpublished data; and various Geographic Information System (GIS) coverages (*e.g.*, land cover type information, land ownership information, snow depth information, topographic information, locations of lynx obtained from radio- or GPS-collars and locations of lynx confirmed via DNA analysis or other verified records).

In evaluating areas to propose as critical habitat we first determined the geographic area occupied by the species. We utilized data providing verified evidence of the occurrence of lynx and evidence of the presence of breeding lynx populations as represented by records of lynx reproduction. We utilized records since 1995 to ensure that this proposed critical habitat designation is based on the data that most closely represents the current status of lynx in the contiguous United States and the geographic area occupied by the species. Data that define the historic and current range of the lynx (*e.g.*, McKelvey *et al.* 2000b; Hoving *et al.* 2003) constitute the geographic area that may be occupied by the species; therefore, we determined that areas outside the historic distribution are not essential to the conservation of the species. Although the average life span of a wild lynx is not known, we have assumed that a lynx born in 1995 could have been alive in 2000 or 2003, the dates of publication of the final listing rule and the clarification of findings. Furthermore, lynx-related research in the contiguous United States substantially increased after the 1998 proposal to list, providing additional

information on which to base this proposed critical habitat designation. These recent verified records were provided by Federal research entities, state wildlife agencies, academic researchers, and private individuals or organizations working on lynx (K. Aubry, Pacific Northwest Research Station, unpubl. data; S. Gehman, Wildthings Unlimited, unpubl. data; S. Gniadek, Glacier National Park, unpubl. data; S. Loch, Independent Scientist, and E. Lindquist, Superior National Forest, unpubl. data; K. McKelvey, Rocky Mountain Research Station; unpubl. data; Minnesota Department of Natural Resources 2005; R. Moen, University of Minnesota, Natural Resources Research Institute, unpubl. data.; J. Squires, Rocky Mountain Research Station, unpubl. data; J. Vashon, Maine Department of Inland Fisheries and Wildlife, unpubl. data).

By accepting only verified recent lynx records, we restricted the available lynx occurrence dataset because we wanted reliable data for the purposes of evaluating areas and features for critical habitat designation. The reliability of lynx occurrence reports can be questionable because the bobcat, a common species, can be confused with the lynx, which is similar in appearance. Additionally, many surveys are conducted by snow tracking in which correct identification of tracks can be difficult because of variable conditions affecting the quality of the track and variable expertise of the tracker. Our definition of a verified lynx record is modified from McKelvey *et al.* (2000b)—(1) An animal (live or dead) in hand or observed closely by a person knowledgeable in lynx identification, (2) genetic (DNA) confirmation, (3) snow tracks only when confirmed by genetic analysis (see for example Murphy *et al.* 2004; McKelvey *et al.* in press) or (4) location data from radio- or GPS-collared lynx. Documentation of lynx reproduction consists of lynx kittens in hand, or observed with the mother by someone knowledgeable in lynx identification, or snow tracks demonstrating family groups traveling together, as identified by a person highly knowledgeable in identification of carnivore tracks.

The geographical area occupied by the species was then delineated to encompass areas containing features essential to the conservation of the lynx, the majority of recent lynx records, evidence of breeding lynx populations, the boreal forest type that is currently occupied by lynx in that particular region and direct connectivity with lynx populations in Canada. Lynx populations in the contiguous United States seem to be influenced by lynx population dynamics in Canada (Thiel 1987; McKelvey *et al.* 2000a, c). Many of these populations in Canada are directly interconnected with United States populations, and are likely a source of emigration into contiguous United States lynx populations. Therefore, we assume that retaining connectivity with larger lynx populations in Canada is important to ensuring long-term persistence of lynx populations in the United States. We assume that, regionally, lynx within the contiguous United States and adjacent Canadian provinces interact as metapopulations. Where available, data on historic average snow depths and bobcat harvest provided additional insight for refining and delineating appropriate boundaries. In Maine and Minnesota, we used the international border with Canada and roads or township lines where possible for ease in description and clarity. In the North Cascades and Northern Rockies, the features essential to the conservation of lynx, the majority of lynx records, evidence of reproduction, and the boreal forest types are found above 4,000 feet (ft) (1,219 meters [m]) in elevation (McKelvey *et al.* 2000b; K. McAllister *et al.* USFS, in litt. 2000). Thus we limited the delineation of proposed critical habitat to lands above this elevation. Additionally, in the North Cascades, features essential to the conservation of the lynx and the majority of the lynx records and evidence of reproduction are from east of the crest of the Cascade Mountains. Therefore, in the Cascades we used the international border with Canada, the Cascade crest and the 4,000-ft (1,219 m) elevation contour east of the crest as the boundary. In the Northern Rockies, the 4,000-ft (1,219 m) contour was used as the primary boundary west of the Continental Divide. However, the climatic effects of the Continental Divide cause the 4,000-ft (1,219 m) elevation contour to be too broad east of the Continental Divide, such that it includes substantial areas of grassland habitats that do not contain features essential to the conservation of the lynx or important for snowshoe hares. Therefore, east of the Continental Divide in the Northern Rockies, we used USFS and National Park Service (NPS) boundaries to circumscribe critical habitat boundaries to more closely encompass essential features, recent records of lynx, including records of reproduction, and boreal forest currently occupied by lynx. The northern boundary for the Northern Rockies unit is the International border with Canada.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific data available and to consider those physical and biological features (primary constituent element) that are essential to the conservation of the species, and that may require special management considerations or protection. The regulations indicate these may include, but are not limited to: Space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The area proposed for designation as critical habitat provides boreal forest habitat for breeding, non-breeding, and dispersing lynx in metapopulations across the species' range in the contiguous United States. No areas are being proposed solely because they provide habitat for dispersing animals. At this time, the biological or physical features of habitats lynx choose for dispersal is not well-understood; while it is assumed lynx would prefer to travel where there is forested cover, the literature contains many examples of lynx crossing large, unforested openings (*e.g.*, Roe *et al.* 2000). The areas being proposed as critical habitat serve a variety of functions that include acting as a source of dispersing animals and providing habitat that may serve as travel corridors to facilitate dispersal and exploratory movements. The features or habitat components essential for the conservation of the species were determined from studies of lynx and snowshoe hare ecology.

The specific biological and physical features, otherwise known as the primary constituent elements, essential to the conservation of the lynx are:

(1) Boreal forest landscapes supporting a mosaic of differing successional forest stages and containing:

(a) Presence of snowshoe hares and their preferred habitat conditions, which include dense understories of young trees or shrubs tall enough to protrude above the snow; and

(b) Winter snow conditions that are generally deep and fluffy for extended periods of time; and

(c) Sites for denning that have abundant coarse woody debris, such as downed trees and root wads.

A description of the primary constituent elements are described below.

Boreal Forest Landscapes (Space for Individual and Population Growth and Normal Behavior)

Lynx populations respond to biotic and abiotic factors at different scales. At the regional scale, snow conditions, boreal forest, and competitors (especially bobcat) influence the species' range (Aubry *et al.* 2000; McKelvey *et al.* 2000b; Hoving *et al.* 2005). At the landscape scale within each region, natural and human-caused disturbance processes (*e.g.*, fire, wind, insect infestations and forest management) influence the spatial and temporal distribution of lynx populations by affecting the distribution of good habitat for snowshoe hares (Agee 2000; Ruediger *et al.* 2000). At the stand-level scale, quality, quantity, and juxtaposition of habitats influence home range size, productivity, and survival (Aubry et al. 2000; Vashon *et al.* 2005a). At the substand scale, spatial distribution and abundance of prey and microclimate influence movements, hunting behavior, den, and resting site locations.

All of the primary constituent elements of critical habitat for lynx are found in what is broadly described as the boreal forest landscape. In the contiguous United States, the boreal forest is more transitional rather than true boreal forest of northern Canada and Alaska (Agee 2000). This difference is because the boreal forest is at its southern limits in the contiguous United States, where it transitions to deciduous temperate forest in the northeast and Great Lakes and subalpine forest in the west (Agee 2000). We use the term ''boreal forest'' because it generally encompasses most of the vegetative descriptions of the transitional forest types that comprise lynx habitat in the contiguous United States (Agee 2000).

At a regional scale, lynx habitat is within the areas that generally support deep snow throughout the winter and that support boreal forest vegetation types (see below for more detail). In eastern North America, lynx distribution was strongly associated with areas of deep snowfall (greater than 268 cm (105 in) of mean annual snowfall) and 100 km^2 (40 mi^2) landscapes with a high proportion of regenerating forest (Hoving 2001). Hoving *et al.* (2004) concluded that the broad geographic distribution of lynx in eastern North America is most influenced by snowfall, but within areas of similarly deep snowfall, measures of forest succession become more important factors in determining lynx distribution.

As described above (see ''Background''), boreal forests used by lynx are cool, moist and dominated by conifer tree species, primarily spruce and fir (Elliot-Fisk 1988; Agee 2000; Aubry *et al.* 2000; Ruediger *et al.* 2000). Boreal forest landscapes used by lynx are a heterogeneous mosaic of vegetative cover types and successional forest stages created by natural and human-caused disturbances (McKelvey *et al.* 2000a). Periodic vegetation disturbances stimulate development of dense understory or early successional habitat for snowshoe hares (Ruediger *et al.* 2000). In Maine, lynx were positively associated with landscapes altered by clearcutting 15 to 25 years previously (Hoving *et al.* 2004).

The overall quality of the boreal forest landscape matrix and juxtaposition of stands in suitable condition within the landscape is important for both lynx and snowshoe hares in that it can influence connectivity or movements between suitable stands, availability of food and cover and spatial structuring of populations or subpopulations (Hodges 2000b; McKelvey *et al.* 2000a; Ricketts 2001; Walker 2005). For example, lynx foraging habitat must be near denning habitat to allow females to adequately provision dependent kittens, especially when the kittens are relatively immobile. In north-central Washington, hare densities were higher in landscapes with an abundance of dense boreal forest interspersed with small patches of open habitat, in contrast to landscapes composed primarily of open forest interspersed with few dense vegetation patches (Walker 2005). Similarly, in northwest Montana, connectivity of dense patches within the forest matrix benefited snowshoe hares (Ausband and Baty 2005). In mountainous areas, lynx appear to prefer flatter slopes (Apps 2000; McKelvey *et al.* 2000d; von Kienast 2003; Maletzke 2004).

Individual lynx require large portions of boreal forest landscapes to support their home ranges and to facilitate dispersal and exploratory travel. The size of lynx home ranges is believed to be strongly influenced by the quality of the habitat, particularly the abundance of snowshoe hares, in addition to other factors such as gender, age, season, and density of the lynx population (Aubry *et al.* 2000; Mowat *et al.* 2000). Generally, females with kittens have the smallest home ranges while males have the largest home ranges (Moen *et al.* 2004). Reported home range size varies from 31 km^2 (12 mi^2) for females and 68 km^2 (26 mi^2) for males in Maine (Vashon *et al.* 2005a) to much larger ranges of 88 km^2 (34 mi^2) for females and 216 km^2 (83 mi^2) for males in northwest Montana (Squires *et al.* 2004b).

Forest Type Associations

Maine

Lynx were more likely to occur in 100 km^2 (40 mi^2) landscapes with regenerating forest, and less likely to occur in landscapes with recent clearcut or partial harvest, (Hoving *et al.* 2004). Lynx in Maine select softwood (spruce and fir) dominated regenerating stands (Vashon *et al.* 2005a). Regenerating stands used by lynx generally develop 15–30 years after forest disturbance and are characterized by dense horizontal structure and high stem density within a meter of the ground. These habitats support high snowshoe hare densities (Homyack 2003; Fuller and Harrison 2005; Vashon *et al.* 2005a). At the stand scale, lynx in northwestern Maine selected older (11 to 26 year-old), tall (4.6 to 7.3 m (15 to 24 ft)) regenerating clearcut stands and older (11 to 21 year-old) partially harvested stands (A. Fuller, University of Maine, unpubl. data).

Minnesota

In Minnesota, lynx primarily occur in the Northern Superior Uplands Ecological Section of the Laurentian Mixed Forest Province. Historically, this area was dominated by red pine (*Pinus resinosa*) and white pine (*P. strobus)* mixed with aspen (*Populus spp.*), paper birch (*Betula papyrifera*), spruce, balsam fir (*A. balsamifera*) and jack pine (*P. banksiana*) (Minnesota Department of Natural Resources [Minnesota DNR] 2003).

Preliminary research suggests lynx in Minnesota generally use younger stands (less than 50 years) with a conifer component in greater proportion than their availability (R. Moen, University of Minnesota, unpubl. data). Lynx prefer predominantly upland forests dominated by red pine, white pine, jack pine, black spruce (*P. mariana*), paper birch, quaking aspen (*P. tremuloides*), or balsam fir (R. Moen, unpubl. data).

Washington

In the North Cascades in Washington, the majority of lynx occurrences were found above 1,250 m (4,101 ft) elevation (McKelvey *et al.* 2000b,d; von Kienast 2003; Maletzke 2004). In this area, lynx selected Engelman spruce *(P. engelmanii)*-subalpine-fir *(A. lasiocarpa)* forest cover types in winter

(von Kienast 2003, Maletzke 2004). Lodgepole pine *(P. contorta)* is a dominant tree species in the earlier successional stages of these climax cover types. Seral lodgepole stands contained dense understories and therefore received high use by snowshoe hares and lynx (Koehler 1990; McKelvey *et al.* 2000d).

Northern Rockies

In the Northern Rocky Mountains, the majority of lynx occurrences are associated with the Rocky Mountain Conifer Forest vegetative class (Kuchler 1964; McKelvey *et al.* 2000b) and occur above 1,250 m (4,101 ft) elevation (Aubry *et al.* 2000; McKelvey *et al.* 2000b). The dominant vegetation that constitutes lynx habitat in these areas is subalpine fir, Engelman spruce and lodgepole pine (Aubry *et al.* 2000; Ruediger *et al.* 2000). As in the Cascades, lodgepole pine is an earlier successional stage of subalpine fir and Engelman spruce climax forest cover types.

a. Snowshoe Hares (Food)

Snowshoe hare density is the most important factor explaining the persistence of lynx populations (Steury and Murray 2004). A minimum snowshoe hare density necessary to maintain a persistent, reproducing lynx population within the contiguous United States has not been determined, although Ruggiero *et al.* (2000) suggested that at least 0.5 hares per hectare (ha) (0.2 hares per acre (ac)) may be necessary. Steury and Murray (2004) modeled lynx and snowshoe hare populations and predicted that a minimum of 1.1 to 1.8 hares per ha (0.4 to 0.7 hares per ac) was required for persistence of a reintroduced lynx population in the southern portion of the lynx range.

The boreal forest landscape must contain a mosaic of forest stand successional stages to sustain lynx populations over the long term as the condition of individual stands changes over time. If the vegetation potential (or climax forest type) of a particular forest stand is conducive to supporting abundant snowshoe hares, it likely will also go through successional phases that are unsuitable as lynx foraging (snowshoe hare habitat) or lynx denning habitat (Agee 2000; Buskirk *et al.* 2000b). For example, a boreal forest stand where there has been recent disturbance, such as fire or timber harvest, resulting in little or no understory structure is unsuitable as snowhoe hare habitat for lynx foraging. That temporarily unsuitable stand may regenerate into suitable snowshoe hare (lynx foraging) habitat within 10 to 25 years, depending on local conditions (Ruediger *et al.* 2000). Forest management techniques that thin the understory, however, may render the habitat unsuitable for hares and, thus, for lynx (Ruediger *et al.* 2000; Hoving *et al.* 2004). Stands may continue to provide suitable snowshoe hare habitat for many years until woody stems in the understory become too sparse, as a result of undisturbed forest succession or management (*e.g.*, clearcutting or thinning). Thus, if the vegetation potential of the stand is appropriate, a stand that is not currently in a condition that is suitable to support abundant snowshoe hares for lynx foraging or coarse woody debris for den sites has the capability to develop into suitable habitat for lynx and snowshoe hares with time.

As described previously, snowshoe hares prefer boreal forest stands that have a dense horizontal understory to provide food, cover and security from predators. Snowshoe hares feed on conifers, deciduous trees and shrubs (Hodges 2000b). Snowshoe hare density is correlated to understory cover between approximately 1 to 3 m (3 to 10 ft) above the ground or snow level (Hodges 2000b). Habitats most heavily used by snowshoe hares are stands with shrubs, stands that are densely stocked, and stands at ages where branches have more lateral cover (Hodges 2000b). In Maine, unthinned stands supporting 1.83 hares per ha (0.7 hares per ac) had average stem densities of 11,600 stems per ha (4700 stems per ac) (Homyack *et al.* 2004). In northcentral Washington, snowshoe hare density was highest in 20 year old lodgepole pine stands where the average density of trees and shrubs was 15,840 stems per ha (6415 stems per ac) (Koehler 1990). Generally, earlier successional forest stages support a greater density of horizontal understory and more abundant snowshoe hares (Buehler and Keith 1982; Wolfe *et al.* 1982; Koehler 1990; Hodges 2000b; Homyack 2003; Griffin 2004); however, sometimes mature stands also can have adequate dense understory to support abundant snowshoe hares (Griffin 2004).

In Maine, the highest snowshoe hare densities were found in regenerating softwood (spruce and fir) and mixedwood stands (Homyack 2003, Fuller and Harrison 2005). In the north Cascades, the highest snowshoe hare densities were found in 20-year-old seral lodgepole pine stands with a dense understory (Koehler 1990). In montane and subalpine forests in northwest Montana, the highest snowshoe hare densities in summer were generally in younger stands with dense forest structure, whereas in winter, snowshoe hare densities were as high or higher in mature stands with dense understory forest structure (Griffin 2004). Snowshoe hare studies are just underway in Minnesota (University of Minnesota Web site *http://www.nrri.umn.edu/lynx/research.html);* therefore, results are not available at this time.

Habitats supporting abundant snowshoe hares must be present in a large proportion of the landscape to support a viable lynx population. Broad-scale snowshoe hare density estimates are not available for the areas being proposed as lynx critical habitat; available snowshoe hare density estimates are only applicable for the immediate area and time frame for which the study was conducted and cannot be extrapolated further.

b. Snow Conditions (Other Physiological Requirements)

As described in the ''Background'' above, snow conditions also determine the distribution of lynx. Deep, fluffy snow conditions likely restrict potential competitors such as bobcat or coyote from effectively encroaching on or hunting in winter lynx habitat. Snowfall was the strongest predictor of lynx occurrence at a regional scale (Hoving *et al.* 2005). In addition to snow depth, other snow properties, including surface hardness or sinking depth, are important factors in the spatial, ecological, and genetic structuring of the species (Stenseth *et al.* 2004).

In the northeastern United States, lynx are most likely to occur in areas with a 10-year mean annual snowfall greater than 268 cm (105 in) (Hoving 2001). The Northern Superior Uplands section of Minnesota, which roughly corresponds to the area proposed as critical habitat, receives more of its precipitation as snow than any section in the State, has the longest period of snow cover, and the shortest growing season (Minnesota DNR 2003). Mean annual snowfall from 1971 to 2000 in this area was generally greater than 149 cm (55 in) (University of Minnesota 2005).

Information on average snowfall or snow depths in mountainous areas such as the Cascades or northwest Montana is limited because there are few weather stations in these regions that have measured snow fall or snow depth over time. An important consideration is that the topography strongly influences local snow conditions. In the Cascades, at the Mazama station, average annual snowfall from 1948 to 1976 was 292 cm (115 in) (Western Regional Climate Center 2005). In Montana, at the Seeley

Lake Ranger Station, average annual snowfall from 1948 to 2005 was 315 cm (124 in), while at the Troy station the average total snowfall from 1961 to 1994 was 229 cm (90 in) (Western Regional Climate Center 2005).

c. Denning Habitat (Sites for Reproduction and Rearing of Offspring)

Lynx den sites are found in mature and younger boreal forest stands that have a large amount of cover and downed, large woody debris. The structural components of lynx den sites are common features in managed (logged) and unmanaged (*e.g.*, insect damaged, wind-throw) stands. Downed trees provide excellent cover for den sites and kittens and often are associated with dense woody stem growth.

Sub-stand characteristics were evaluated for 26 lynx dens from 1999 to 2004 in northwest Maine. Dens were found in several stand types. Modeling of den site variables determined that tip-up mounds (exposed roots from fallen trees) alone best explained den site selection (J. Organ, Service, unpubl. data). Tip-up mounds may purely be an index of downed trees, which were abundant on the landscape. Horizontal cover at 5 m (16 ft) alone was the next best performing model (J. Organ, unpubl. data). Dead downed trees were sampled, but did not explain den site selection as well as tip-up mounds and cover at 5 m (16 ft). Lynx essentially select dense cover in a cover-rich area.

In the North Cascades, Washington, lynx denned in mature (older than 250 years) stands with an overstory of Engelman spruce, subalpine fir and lodgepole pine with an abundance of downed woody debris (Koehler 1990). In this study, all den sites were located on north-northeast aspects (Koehler 1990). In northwest Montana, the immediate areas around dens were in a variety of stand ages but all contained abundant woody debris including downed logs, blowdowns, and rootwads, and dense understory cover (Squires *et al.* 2004b).). Information on den site characteristics in Minnesota has not yet been reported (Moen *et al.* 2004).

Primary Constituent Elements Summary

The discussion above outlines those physical and biological features essential to the conservation of the lynx and provides a basis for their selection as the primary constituent element for this proposed critical habitat. The primary constituent elements comprise the essential features of boreal forest that (1) Provide adequate prey resources necessary for the persistence of local populations and metapopulations of lynx through reproduction; (2) act as a possible source of lynx for more peripheral boreal forested areas; (3) enable the maintenance of home ranges; (4) incorporate snow conditions for which lynx are highly specialized that give lynx a competitive advantage over potential competitors; (5) provide denning habitat; and (6) provide habitat connectivity for travel within home ranges, exploratory movements, and dispersal.

Criteria Used To Identify Critical Habitat

To identify areas containing features that are essential to the conservation of the lynx, we considered the concepts introduced in the recovery outline for the species (Service 2005) and the above analysis concerning occupancy, evidence of reproduction, connectivity with adjacent lynx populations in Canada and the primary constituent elements. In summary, the area occupied by the lynx in the contiguous United States is broadly delineated by the distribution of the southern extensions of boreal forest, which occur in the Northeast (portions of Maine, New Hampshire, Vermont, New York); the western Great Lakes (portions of Minnesota, Wisconsin, Michigan); the Northern Rocky Mountains/Cascades (portions of Washington, Oregon, Idaho, Montana, northwestern Wyoming, Utah); and the Southern Rocky Mountains (portions of Colorado, southeastern Wyoming) (Agee 2000; McKelvey *et al.* 2000b; Hoving *et al.* 2003). Within this broad distribution the recovery outline (Service 2005) delineated core areas that contain consistent, verified records of lynx over time and evidence of reproduction within the past 20 years. The long-term occupation of these general areas by lynx supports the assumption that they contain habitats sufficient in quality and quantity to continue to sustain lynx populations. An additional factor strongly influencing most of these core areas is their connection with larger lynx populations in Canada. Each proposed critical habitat unit occurs within one of these core areas.

The proposed critical habitat designation does not include all the areas identified in the recovery outline as core areas. This is because the recovery outline did not define areas essential to the conservation of lynx as is necessary for this proposed critical habitat designation. The criteria we used for determining areas essential to the conservation of lynx for the proposed critical habitat were more rigorous than those used for delineating the recovery areas in the lynx recovery outline; in particular, for critical habitat we focused closely on areas with reliable evidence of lynx occurrence and reproduction since 1995. The recovery outline more broadly encompassed older records of lynx. For example, the core area in the northeastern United States extends from northern Maine into northern New Hampshire because of historic records of lynx in New Hampshire. However, because there is no verified evidence of lynx occupation or reproduction in New Hampshire or western Maine since 1995, the critical habitat unit does not extend into these areas. Furthermore, the preliminary boundaries for the recovery areas were intended to be for representative purposes only so were drawn on a gross scale compared to the proposed critical habitat boundaries. To simplify the mapping of the recovery area boundaries we often used highways or rivers or, as in Minnesota, general maps of average snowfall for the boundaries although we knew that these recovery outline boundaries encompassed habitats that were not boreal forest habitat. In Minnesota, the recovery core area boundary was drawn according to an approximate line where average snow fall was greater than 55 in (140 cm). However, while subsequently evaluating information for the critical habitat proposal, we received bobcat harvest data for Minnesota showing abundant bobcat harvest and reduced lynx presence in the area west of the proposed critical habitat unit in Minnesota, which suggests the western portion of the area preliminarily delinated as core in Minnesota may not be of high quality for lynx. The Montana and north Cascades (Washington) core area boundaries were drawn primarily along highways and rivers that occur below the 4,000 ft (1,219 m) elevation contour, which is below the elevation that supports lynx habitat. As a result, the proposed critical habitat units are subsets of four of the six areas preliminarily delineated as core areas in the lynx recovery outline.

We did not propose critical habitat in two areas the recovery outline defined as core, the Kettle Range in northcentral Washington and the Greater Yellowstone Ecosystem. The Kettle Range historically supported lynx populations (Stinson 2001). However, although boreal forest habitat within the Kettle Range appears of high quality for lynx, there is no evidence that the Kettle Range is currently occupied by a lynx population (G. Koehler, Washington Department of Fish and Wildlife, pers. comm. 2005). In particular, we have no information to suggest a lynx population

has occupied the Kettle area since 1995. Therefore, we did not propose the Kettle Range as critical habitat.

Although lynx currently occupy the Greater Yellowstone Ecosystem (Murphy *et al.* 2004; J. Squires, Rocky Mountain Research Station, unpubl. data; S. Gehman, Wildthings Unlimited, unpubl. data), their presence has been at a lower level compared to areas we are proposing as critical habitat. In the clarification of findings published in the **Federal Register** on July 3, 2003 (68 FR 40076), we concluded this was because habitat in this area is less capable of supporting snowshoe hares because it is naturally marginal (more patchy and drier forest types) and because the Greater Yellowstone Ecosystem is disjunct from likely source populations. Within Yellowstone National Park, few lynx were detected during recent surveys (Murphy *et al.* 2004) and snowshoe hare densities were very low (Hodges and Mills 2005). Murphy *et al.* (2004) concluded that elevations and slope aspects cause lynx habitat in this area to be naturally highly fragmented, resulting in low lynx densities. Few lynx were documented in the Wyoming Mountain Range in the southern portion of the ecosystem (Squires and Laurion 2000; Squires *et al.* 2001). On study sites on the western edge of the Greater Yellowstone Ecosystem in Idaho, the subalpine fir vegetation series that comprises lynx and snowshoe hare habitat was found only in small, discontinuous patches (McDaniel and McKelvey 2004). In this study area, few stands supported snowshoe hare densities similar to areas known to support lynx (McKelvey and McDaniel 2001). Therefore, because the habitat appears to be of lower quality as indicated by the low numbers of lynx records, we are not proposing to designate critical habitat for lynx within the Greater Yellowstone Ecosystem although it is delineated as a core area in the lynx recovery outline.

The recovery outline identified one area, the Southern Rocky Mountains, as a ''provisional core'' because of the current uncertainty that ongoing lynx reintroduction efforts will result in a self-sustaining lynx population. Native lynx were functionally extirpated from their historic range in Colorado and southern Wyoming in the Southern Rocky Mountains by the time the lynx was listed in 2000. In 1999, the State of Colorado began an intensive effort to reintroduce lynx. Although it is too early to determine whether the introduction will result in a self-sustaining population, the reintroduced lynx have produced kittens and now are distributed throughout the lynx habitat in Colorado and southern Wyoming. These animals are not designated as experimental under section 10(j) of the Act. Although Colorado's reintroduction effort is an important step toward the recovery of lynx, we are not proposing to designate critical habitat in the Southern Rockies because of the current uncertainty that a self-sustaining lynx population will become established.

Many areas within the contiguous United States have one or more individual lynx records with no evidence of persistent, reproducing lynx populations. It is possible some of these areas may support undocumented persistent populations of lynx. However, most of these records are likely a result of wide-ranging dispersal events, occur in habitat that is less suitable for lynx than in the core areas, and are mostly disjunct from areas that contain persistent lynx populations. Our recovery outline defines these areas as secondary or peripheral and their role in sustaining persistent lynx populations is unclear; such areas may provide habitat to dispersing lynx, especially when populations are extremely high and some of these animals may eventually settle in areas capable of supporting lynx populations.

Areas delineated as secondary or peripheral in the lynx recovery outline are not included in our proposed critical habitat designation because they support only periodic records of lynx over time and they lack evidence that reproducing lynx populations occupy any of the secondary or peripheral areas. Habitat suitability for lynx has not been assessed throughout the secondary and peripheral areas, but the relative lack of lynx records over time, and, in particular the lack of evidence of reproducing populations, may suggest that habitat, in particular snowshoe hare densities, has not been adequate historically, nor is it currently adequate, to support reproducing lynx populations. Additionally, some of the peripheral areas are naturally disjunct and support few historical records of lynx. If unsuitable habitat conditions are the reason these areas have no record of supporting reproducing lynx populations, then these areas do not support the PCE for lynx.

We propose to designate critical habitat on lands we have determined were occupied at the time of listing, currently support the most abundant, reproducing lynx populations in the contiguous United States, and contains the primary constituent element that is essential to the conservation of the lynx. The focus of our strategy for proposed critical habitat is on boreal forest landscapes of sufficient size to encompass the temporal and spatial changes in habitat and snowshoe hare populations to support interbreeding lynx populations or metapopulations over time within each unit. Individual lynx maintain large home ranges; the areas proposed as critical habitat are large enough to encompass multiple home ranges. A secondary consideration is that, in addition to supporting breeding populations, these areas provide connectivity among patches of suitable habitat (*e.g.*, patches containing abundant snowshoe hares), whose locations in the landscape shift through time.

At the scale of the proposed units it was not feasible to completely avoid encompassing waterbodies, including lakes, reservoirs and rivers, and developed areas such as towns (see Proposed Regulation Promulgation section below), or human-made structures such as buildings, airports, paved and gravel roadbeds, active railroad beds, and other structures that lack the PCEs for the lynx. Any such developed areas and the land on which such structures are located, inside proposed critical habitat boundaries, are not considered part of the proposed unit. Therefore, section 7 consultation would not be required for Federal actions that affect only these areas because they would not affect critical habitat or lynx, although any indirect effects of such actions must also be considered when determining whether section 7 consultation is required.

Special Management Considerations or Protection

As we undertake the process of designating critical habitat for a species, in the geographical area occupied by the lynx at the time of listing we first evaluate lands defined by those physical and biological features essential to the conservation of the species for inclusion in the designation pursuant to section 3(5)(A) of the Act. We then evaluate those lands to assess whether they, or the features themselves, may require special management considerations or protection. The areas proposed for designation as critical habitat will require some level of management to address the current and future threats to the lynx and to maintain the primary constituent elements essential to the conservation of the species. In all units, special management will be required to ensure that boreal forest landscapes provide a mosaic of forest stands of various ages to provide abundant prey habitat, denning habitat, and connectivity within the landscape.

The designation of critical habitat does not imply that lands outside of

critical habitat do not play an important role in the conservation of the lynx. Federal activities that may affect areas outside of critical habitat, such as forest management, development, and road construction, are still subject to review under section 7 of the Act if they may affect lynx because Federal agencies must consider both effects to lynx and effects to critical habitat independently. The prohibitions of section 9 of the Act (*e.g.*, harm, harass, capture, kill) also continue to apply both inside and outside of designated critical habitat.

Proposed Critical Habitat Designation

We are proposing four units as critical habitat for the lynx. These areas occur in northern Maine, northeastern Minnesota, the Northern Rocky Mountains (northwestern Montana/northeastern Idaho), and the Northern Cascades (north-central Washington). The areas are distributed across the known occupied range of the lynx in the contiguous United States, and are necessary to conserve the species. The critical habitat areas described below constitute our best assessment at this time of the areas essential for the conservation of the lynx and that require special management considerations or protection. To further understand the location of these proposed areas please see the associated maps found within this proposed rule (also available at our Web site: *http://mountain-prairie.fws.gov/species/mammals/lynx/).*

The four critical habitat units are: (1) Maine unit; (2) Minnesota unit; (3) Northern Rocky Mountains unit (northwestern Montana/northeastern Idaho); and (4) Northern Cascades unit (north-central Washington) (Table 1). Proposed critical habitat by land ownership and State is in Table 2.

TABLE 1.—CRITICAL HABITAT UNITS PROPOSED FOR THE CANADA LYNX

Critical Habitat Unit	Miles^2	Kilometers^2
1. Maine	10,633	27,539
2. Minnesota	3,546	9,183
3. Northern Rocky Mountains (ID/MT)*	10,760	27,869
4. Northern Cascades (WA)*	1,996	5,169
Total*	26,935	69,760

(Note U.S. Forest Service lands in Idaho, Montana, and Washington are not included in this proposal, although their area is reflected in the values in the table (*).)

TABLE 2.—CRITICAL HABITAT PROPOSED FOR THE CANADA LYNX BY LAND OWNERSHIP AND STATE (MI^2 /KM^2)

	Federal*	State	Private	Tribal	Other
Idaho	0/0	1/3	0/0	0/0	0/0
Maine	13/34	758/1,962	9,741/25,230	86/223	35/90
Minnesota	440/1,139	1,355/3,510	1,661/4,303	74/192	15/39
Montana	*	365/946	1,691/4,381	0/0	63/162
Washington	*	164/426	5/13	0/0	0.5/1
Total	*	2,643/6,847	13,098/33,927	160/415	114/293

(Note U.S. Forest Service lands in Idaho, Montana, and Washington are not included in this proposal, although their area is reflected in the values in the table (*).)

We present brief descriptions of each critical habitat unit below.

Unit 1: Maine

Unit 1 is located in northern Maine in portions of Aroostook, Franklin, Penobscot, Piscataquis and Somerset Counties. This area was occupied by the lynx at the time of listing and, since that time, lynx have been documented throughout northern Maine. Research in northwestern Maine has documented high productivity of lynx; 91 percent (30 of 33 potential litters) of available adult females (greater than 2 years) produced litters and litters averaged 2.83 kittens (Vashon *et al.* 2005b). This area contains the features essential to the conservation of the lynx as it is comprised of extensive boreal forest supporting the primary constituent element and its components. This area is also important for lynx conservation because it is the only area in the northeastern region of the lynx's range within the contiguous United States that currently supports breeding lynx populations, and likely acts as a source or provides connectivity for more peripheral portions of the lynx's range in the Northeast. Timber harvest and management is the dominant land use within the unit, therefore, special management is required depending on the silvicultural practices conducted (Service 2003). Timber management practices that provide for a dense understory are beneficial for lynx and snowshoe hares. In this area, other habitat-related threats to lynx are lack of an International conservation strategy for lynx, traffic and development (Service 2003).

Unit 2: Minnesota

Unit 2 is located in northeastern Minnesota in portions of Cook, Koochiching, Lake, and St. Louis Counties. In 2003, when we last formally reviewed the status of the lynx, there were numerous verified records of lynx from northeastern Minnesota (68 FR 40076, July 3, 2003). Lynx are currently known to be distributed throughout northeastern Minnesota, as has been confirmed through DNA analysis, radio- and GPS-collared animals, and documentation of reproduction (Moen *et al.* 2004; Minnesota DNR 2005; S. Loch, independent scientist, unpubl. data; Minnesota Department of Natural Resources, unpubl. data). This area contains the features essential to the conservation of the lynx as it comprises extensive boreal forest supporting the primary constituent elements. This area is also important for lynx conservation because it is the only area in the Great Lakes region of the lynx's range in the contiguous United States for which we have evidence of recent lynx reproduction, and it likely acts as a source or provides connectivity for more peripheral portions of the lynx's range in the Great Lakes region. Timber

harvest and management is a dominant land use (Service 2003). Therefore, special management is required depending on the silvicultural practices conducted Timber management practices that provide for a dense understory are beneficial for lynx and snowshoe hares. In this area, lack of an international conservation strategy for lynx, fire suppression or fuels treatment, traffic and/or development are other habitat-related threats to lynx (Service 2003).

As described below, the lands (both Superior National Forest and non-USFS lands) encompassed in Lynx Analysis Units (LAUs) mapped by the Superior National Forest and lands the Forest delineated as a Lynx Refugium are not included in this proposed designation because, although important to the conservation of the lynx, the Superior National Forest manages its lands within the LAUs with measures to conserve lynx and takes into consideration habitat conditions for lynx throughout a LAU regardless of land ownership. Therefore, no special management consideration or protection of this area is necessary.

Public Land Survey sections encompassing a mining district in Minnesota known as the Iron Range were not included in the proposed designation because they do not contain the physical and biological features essential to the conservation of lynx. In much of the Iron Range, mining has removed all vegetation and much of this area was subsequently flooded. Areas that are still vegetated and not flooded are extensively fragmented by the mined areas and haul roads. We used the ''GAP Land Cover—Tiled Raster'' dataset (Minnesota Department of Natural Resources 2002) to identify sections that are heavily influenced by mining activities. Areas described as ''Barren'' and ''Mixed Developed'' in the GAP dataset appeared to correspond to areas that were mined or extensively disturbed by mining related activities (service roads, etc.), based on analyses of aerial photos (National Agricultural Imagery Program 2003). Further inspection of the aerial photos indicated that there were additional sections with extensive effects of mining, beyond that indicated by the GAP data, which is based on 10–15 year-old satellite imagery.

Unit 3: Northern Rocky Mountains

Unit 3 is located in northwestern Montana and a small portion of northeastern Idaho in portions of Boundary County in Idaho and Flathead, Glacier, Granite, Lake, Lewis and Clark, Lincoln, Missoula, Pondera, Powell and Teton Counties in Montana. This area was known to be occupied by lynx at the time of listing. Lynx are currently known to be widely distributed throughout this unit and breeding has been documented in multiple locations (Gehman *et al.* 2004; Squires *et al.* 2004a, 2004b). The Salish Mountains appear to support few recent verified lynx records. However, survey effort in the Salish Mountains has been limited, boreal forest conditions exist, and the Salish Mountains likely provide east-west connectivity between the Purcell Mountains and the Whitefish Mountains. This area contains the features essential to the conservation of the lynx as it is comprised of boreal forest supporting the primary constituent elements. This area is also important for lynx conservation because it appears to support the highest density lynx populations in the Northern Rocky Mountain region of the lynx's range. It likely acts as a source or provides connectivity for other portions of the lynx's range in the Rocky Mountains, particularly the Yellowstone area.

As described below, the Flathead Indian Reservation and Bureau of Land Management (BLM) lands in the Garnet Resource Area, and Federal lands within the Flathead, Helena, Idaho Panhandle, Kootenai, Lewis and Clark, and Lolo National Forests are not included in this proposed designation because, although important to the conservation of the lynx, these lands are sufficiently managed with measures to conserve lynx. Therefore, no special management considerations or protection of these areas is needed.

Unit 4: North Cascades

Unit 4 is located in north-central Washington in portions of Chelan and Okanogan Counties. This area was known to be occupied at the time lynx was listed. This unit supports the highest densities of lynx in Washington (Stinson 2001). Evidence from limited recent research and DNA shows lynx distributed within this unit, with breeding being documented (von Kienast 2003; K. Aubry, Pacific Northwest Research Station, unpubl. data; B. Maletzke, Washington State University, unpubl. data). Although there appear to be fewer records in the portion of the unit south of Highway 20, few surveys have been conducted in this portion of the unit. This area does support boreal forest habitat and the components essential to the conservation of the lynx. Further, it is contiguous with the portion of the unit north of Highway 20, particularly in winter when deep snows close Highway 20. The northern portion of the unit adjacent to the Canadian border also appears to support few recent lynx records; however, it is designated wilderness so access to survey this area is difficult. This northern portion supports extensive boreal forest vegetation types and the components essential to the conservation of the lynx. Additionally, lynx populations exist in British Columbia directly north of and likely continuous with this unit (E. Lofrothe, British Columbia Ministry of the Environment, unpubl. data). This area contains the features essential to the conservation of the lynx as it is comprised of extensive boreal forest supporting the primary constituent element and its components. This area is also important for lynx conservation because it is the only area in the Cascades region of the lynx's range that is known to support breeding lynx populations.

The BLM lands in the Spokane District and Federal lands within the Okanogan-Wenatchee National Forest are not included in this proposed designation because, although important to the conservation of the lynx, these lands are sufficiently managed with measures to conserve lynx. Since no special management considerations or protection is needed for lynx, the area does not meet the definition of critical habitat.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. We are currently reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical

habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). The conservation recommendations in a conference report are advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the action agency ensures that their actions do not destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the lynx or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (*e.g.,* Federal Highway Administration or Federal Emergency Management Agency funding), will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal and private lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the lynx. Federal activities that when carried out may adversely affect critical habitat for the lynx include, but are not limited to, the following. Note that the scale of these activities would be a crucial factor in determining whether, in any instance, they would directly or indirectly alter critical habitat to the extent that the value of the critical habitat for the survival and recovery of lynx would be appreciably diminished:

(1) Actions that would reduce or remove understory vegetation within boreal forest stands. Such activities could include, but are not limited to, pre-commercial thinning or fuels treatment of forest stands. These activities could significantly reduce the quality of snowshoe hare habitat such that the landscape's ability to produce adequate densities of snowshoe hares to support persistent lynx populations is at least temporarily diminished.

(2) Actions that would cause permanent loss or conversion of the boreal forest. Such activities could include, but are not limited to, commercial, residential or recreational area developments; certain types of mining activities and associated developments; and road building. Such activities would eliminate and fragment lynx and snowshoe hare habitat.

(3) Actions that would increase traffic volume and speed on roads that divide lynx critical habitat. Such activities could include, but are not limited to, transportation projects to upgrade roads or development of a new tourist destination. These activities could reduce connectivity within the boreal forest landscape for lynx and could result in increased mortality of lynx within the critical habitat units as lynx are highly mobile and frequently cross roads during dispersal, exploratory movements or travel within their home ranges.

If you have questions regarding whether specific activities may constitute destruction or adverse modification of critical habitat, contact the Supervisor of the appropriate Ecological Services Field Office (see list below).

State	Address	Phone No.
Maine	1168 Main Street, Old Town, Maine 04468	(207) 827–5938
Minnesota	4101 East 80th Street, Bloomington, Minnesota 55425	(612) 725–3548
Montana	100 N. Park Ave, Suite 320, Helena, Montana 59601	(406) 449–5225
Idaho and Washington	11103 E. Montgomery Drive, Spokane, Washington 99206	(509) 893–8015

We consider each of the proposed critical habitat units to have been occupied by the species at the time we last formally reviewed the status of the species under the Act in 2003 based on surveys and research documenting the presence and reproduction of lynx (68 FR 40076, July 3, 2003). We consider each of these units included in this proposed designation to contain the physical and biological features essential to the conservation of the lynx (i.e., the primary constituent element).

Application of Section 3(5)(A) of the Endangered Species Act

Section 3(5)(A)(i) of the Act defines critical habitat as the specific areas within the geographical area occupied by the species at the time of listing on which are found those physical and biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection. Therefore, areas within the geographical area occupied by the species at the time of

listing that do not contain the features essential for the conservation of the species are not, by definition, critical habitat. Similarly, those physical and biological features within the geographical area occupied by the species at the time of listing determined to be essential to the conservation of the species that may not require special management or protection also are not, by definition, critical habitat.

In certain cases, we have determined that management plans or programs afford adequate management considerations or protection to essential features, such that the features no longer require special management or protection. We consider a current management program or plan to provide adequate special management or protection if it meets three criteria—(1) The plan is complete and provides special management or protection (i.e., the plan must provide the species' population, or the protection, enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the management and protection strategies will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances that the management and protection strategies will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives).

During development of this critical habitat proposal for the lynx, we first determined which physical and biological features are essential to the species' conservation and delineated the specific areas that contain those features and recent verified records of lynx presence and reproduction. Next, we refined the delineation of the designation to include only those lands that contained essential features that require special management or protection pursuant to the definition of critical habitat in 3(5)(A) of the Act.

During this process, we identified several areas where land management plans have been amended or revised to incorporate the lynx management strategy as outlined in the Lynx Conservation Assessment and Strategy (LCAS) or comparable programs. The USFS, BLM, NPS, and the Service developed the LCAS using the best available science specifically to provide a consistent and effective approach to conserve lynx and lynx habitat on Federal lands (Ruediger et al. 2000). The overall goals of the LCAS were to recommend lynx conservation measures, to provide a basis for reviewing the adequacy of USFS and BLM land and resource management plans with regard to lynx conservation, and to facilitate conferencing and consultation under section 7 of the Act. The LCAS identifies an inclusive list of 17 potential risk factors for lynx or lynx habitat that may be addressed under programs, practices, and activities within the authority and jurisdiction of Federal land management agencies. The risks identified in the LCAS are based on effects to either individual lynx, lynx populations, both, or lynx habitat. Potential risk factors the LCAS addresses that may affect lynx productivity include: timber management, wildland fire management, recreation, forest/backcountry roads and trails, livestock grazing, and other human developments. Potential risk factors the LCAS addresses that may affect lynx mortality include: trapping, predator control, incidental or illegal shooting, competition and predation as influenced by human activities and highways. Potential risk factors the LCAS addresses that may affect lynx movement include: highways, railroads and utility corridors, land ownership pattern, and ski areas and large resorts. Other potential large-scale risk factors for lynx addressed by the LCAS include: fragmentation and degradation of lynx refugia, lynx movement and dispersal across shrub-steppe habitats, and habitat degradation by non-native and invasive plant species.

The LCAS ensures the appropriate mosaic of habitat is provided for lynx on Federal lands. Although the LCAS was written specifically for Federal lands, many of the conservation measures are pertinent for non-Federal lands. To facilitate project planning and allow for the assessment of the potential effects of a project on an individual lynx, the LCAS directs Federal land management agencies to delineate Lynx Analysis Units (LAUs) (Ruediger et al. 2000). The scale of an LAU approximates the size of area used by an individual lynx (25 to 50 mi^2 (65 to 130 km^2)) (Ruediger et al. 2000). The LCAS recognizes that LAUs will likely encompass both lynx habitat and other areas (*e.g.,* lakes, low elevation ponderosa pine (*Pinus ponderosa*) forest, and alpine tundra). Habitat-related standards the LCAS provides to address potential risks include: (1) If more than 30 percent of lynx habitat in an LAU is currently in unsuitable condition, no further reduction of suitable condition shall occur as a result of vegetation management activities by Federal agencies; (2) within an LAU, maintain denning habitat in patches generally larger than 5 acres, comprising at least 10 percent of lynx habitat; (3) maintain habitat connectivity within and between LAUs; (4) management actions (*e.g.,* timber sales, salvage sales) shall not change more than 15 percent of lynx habitat within an LAU to an unsuitable condition within a 10 year period; (5) pre-commercial thinning will only be allowed when stands no longer provide snowshoe hare habitat; (6) on Federal lands in lynx habitat, allow no net increase in groomed or designated over-the-snow routes and snowmobile play areas by LAU (Ruediger *et al.* 2000).

With the listing of the lynx in 2000, Federal agencies across the contiguous United States range of the lynx were required to consult with the Service on actions that may affect lynx. The LCAS assists Federal agencies in planning activities and projects in ways that benefit lynx or avoid adverse impacts to lynx or lynx habitat (Ruediger et al. 2000). If projects are designed that fail to meet the standards in the LCAS, the biologists using the LCAS would arrive at an adverse effect determination for lynx.

A Conservation Agreement between the USFS and the Service (U.S. Forest Service and U.S. Fish and Wildlife Service 2000) and a similar Agreement between the BLM and the Service (Bureau of Land Management and U.S. Fish and Wildlife Service 2000) committed the USFS and BLM to use the LCAS in determining the effects of actions on lynx until Forest Plans were amended or revised to adequately conserve lynx. A programmatic biological opinion pursuant to section 7 of the Act analyzed and confirmed the adequacy of the LCAS and its conservation measures to conserve lynx and concluded that Forest and BLM land management plans as implemented in accordance with the Conservation Agreements would not jeopardize the continued existence of lynx (U.S. Fish and Wildlife Service 2000).

In 2005, the USFS and the Service renewed the conservation agreement (U.S. Forest Service and U.S. Fish and Wildlife Service 2005) because the original agreement had expired. In the 2005 agreement, the parties agree to take measures to reduce or eliminate adverse effects or risks to lynx and its occupied habitat pending amendments to Forest Plans. The LCAS is a basis for implementing this agreement (U.S. Forest Service and U.S. Fish and Wildlife Service 2005). The 2005

agreement expires December 31, 2006, unless renewed. The BLM continues to adhere to their original agreement although it expired in December 2004.

Lynx conservation depends on supporting boreal forest landscapes of sufficient size to encompass the temporal and spatial changes in habitat and snowshoe hare populations to support interbreeding lynx populations or metapopulations over time. We have determined that management plans that incorporate the LCAS provide adequate management or protection for lynx because they meet the three criteria identified above. Specifically—(1) The management plans have been finalized and incorporate the provisions of the LCAS, which provides the best scientifically-based conservation measures known for lynx at this time; at a minimum, the incorporation of the LCAS conservation measures to address risk factors affecting lynx productivity into a management plan provides adequate management and protection for lynx and features essential to the conservation of lynx; (2) where Federal agencies and non-Federal entities (including Tribes) have amended or revised their management plans to incorporate provisions of the LCAS, these provisions become the management direction for that particular land base; conservation measures in the LCAS are designed to be implemented at the programmatic and project level scale; and (3) the land management entities have incorporated provisions of the LCAS in order the provide for the conservation of the lynx; the conservation measures in the LCAS are intended to conserve lynx and to reduce or eliminate adverse effects from the spectrum of management activities on Federal lands (or other lands where the conservation measures are applied), at this time, there is no other scientifically-based land management guidance available for lynx; these management plans are in effect until future plan revisions or plan amendments supercede the current plans.

We evaluated areas to determine if they meet the definition of critical habitat by (1) containing features essential to the conservation of the lynx, and (2) if the essential features may require special management or protection. We determined that these lands did contain features essential to the conservation of the lynx. However, based on the provisions in the LCAS beneficial to the lynx, we determined that the features on lands covered by management programs or plans that have been revised or amended to adopt the LCAS do not require special management or protection and, therefore, these lands do not meet the definition of critical habitat pursuant to section 3(5)(A) of the Act. These lands, described below, are not included in the proposed designation:

Superior National Forest

The Superior National Forest located in northeastern Minnesota has revised its Land and Resource Management Plan (LRMP) to include specific measures to conserve lynx, based on the LCAS (Ruediger et al. 2000; USFS 2004a, b; Service 2004). Much of the boreal forest habitat in northeastern Minnesota is found on Superior National Forest (Service 2004), and a large proportion of the recent lynx records in Minnesota have been detected on the Superior National Forest (Moen et al. 2004; Minnesota DNR 2005). The revised LRMP went through stakeholder meetings, section 7 consultation with the Service, and public review. The LRMP will guide day-to-day management decisions for the next 15 years, whereupon the LRMP will again undergo revision. (USFS 2004a).

The Superior LRMP adopted the standards, guidelines, and objectives of the LCAS (Ruediger et al. 2000; K. McAllister, in litt. 2002) that the USFS determined were appropriate and relevant to lynx conservation in Minnesota, in consultation with the Service. To remove redundancies with other management direction, the LRMP excluded certain LCAS standards, guidelines, and objectives and reclassified some to increase their potential to benefit lynx, to avoid confusion with terms found elsewhere in the LRMP, and to allow for management flexibility that would not compromise lynx conservation. In addition, it designated the Boundary Waters Canoe and Wilderness Area as a Lynx Refugium, in which natural processes will be the predominant determinant of lynx habitat conditions with some active management that would be ''compatible with wilderness values'' (USFS 2004a).

The Superior National Forest has delineated Lynx Analysis Units (LAUs) within which it applies the lynx conservation measures prescribed in the LRMP. The LAUs are the smallest landscape scale analysis units upon which direct, indirect, and cumulative effects analyses for lynx will be performed (Ruediger et al. 2000; USFS 2004a). They encompass lynx habitat (on all ownerships) within the administrative unit that has been mapped (in coordination with adjacent management agencies and the Service) using specific criteria to identify appropriate vegetation and environmental conditions (U.S. Forest Service 2004a).

Within the proclamation boundaries of the Superior National Forest are numerous inholdings of non-USFS land (e.g., lands owned by State of Minnesota, private companies, etc.). The Superior National Forest may only control management on National Forest lands, but the LRMP's objectives, standards, and guidelines ensure that National Forest actions may be restricted based on the condition of non-USFS lands in LAUs. For example, if greater than 30 percent of lynx habitat within an LAU is in an unsuitable condition (e.g., very recent clearcuts), Superior National Forest would not take any action to further increase the extent of unsuitable habitat, even if all of the unsuitable habitat were on non-USFS lands. Therefore, the LRMP is able to affect the general condition of lynx habitat within LAUs, even where the LAUs contain lands that are not owned or directly controlled by the USFS. However, most of the land within the LAUs is under USFS management.

On the basis of the conservation benefits afforded the lynx from the measures in the approved, revised LRMP and the definition of critical habitat contained in section 3(5)(A) of the Act, we have not included those lands (both Superior National Forest and non-USFS lands within the proclamation boundary) encompassed in LAUs mapped by the Superior National Forest or delineated by the Forest as a Lynx Refugium in this proposed designation because we have determined that special management or protection of these lands and the features essential to the conservation of the lynx is not required. Although important to the conservation of the lynx, the Superior National Forest manages its lands within the LAUs with measures to conserve lynx and takes into consideration habitat conditions for lynx throughout a LAU regardless of land ownership.

Garnet Resource Area, Bureau of Land Management

The BLM's Garnet Resource Management plan has been amended to incorporate all provisions of the LCAS (State Director, BLM, in litt. 2004; R.M. Wilson, in litt. 2004). The Garnet Resource Area supports blocks of boreal forest that currently support lynx populations on the southern edge of the Northern Rockies Unit. The amendment went through public review and consultation with us under section 7 of the Act; a finding of no significant impact was issued by BLM in 2004

(R.M. Wilson, in litt. 2004; State Director, BLM, in litt. 2004).

On the basis of the conservation benefits afforded the lynx from the measures in the amended Garnet Resource Management Plan and the definition of critical habitat contained in section 3(5)(A) of the Act, we have not included those lands that are within the boundaries of the approved Garnet Resource Management Plan in this proposed designation of critical habitat for the lynx. These lands, and features there on, are being adequately managed for lynx and, as a result, do not meet the definition of critical habitat. Because the BLM already manages these lands, and features there on, consistent with lynx conservation, we have determined that no special management or protection pursuant to section 3(5)(A) is required.

Flathead Indian Reservation

The tribal lands in the Northern Rockies unit (portions of the Flathead Indian Reservation) are managed by the Confederated Salish and Kootenai Tribes (CSKT) under their Forest Management Plan that incorporates the provisions of the LCAS (CSKT 2000). On the basis of the conservation benefits afforded the lynx from the measures in the CSKT's Forest Management Plan and the definition of critical habitat contained in section 3(5)(A) of the Act, we have not included lands that are within the boundaries of the Flathead Indian Reservation in this proposed designation of critical habitat for the lynx. These lands, and features there on, are being adequately managed for lynx and, as a result, do not meet the definition of critical habitat. Because the Tribes already manage these lands, and features there on, consistent with lynx conservation, no special management or protection pursuant to section 3(5)(A) is required.

Spokane District, Bureau of Land Management

Small portions of lands administered by the BLM's Spokane District are encompassed in the proposed boundaries delineated as proposed lynx critical habitat in the North Cascades unit in Washington. These lands support boreal forest habitat but only occur in extremely small areas within the proposed critical habitat boundary. The BLM Spokane District Resource Management Plan was modified in 2003 to incorporate all of the provisions of the LCAS through what is called ''Resource Management Plan Maintenance'' (BLM. 2003).

On the basis of the conservation benefits afforded the lynx from the measures in the approved Spokane District Resource Management Plan Maintenance and the definition of critical habitat contained in section 3(5)(A) of the Act, we have not included those lands that are within the boundaries of the BLM's Spokane District Resource Management Plan in this proposed designation of critical habitat for the lynx. The BLM already manages this area, and features there on, consistent with lynx conservation; therefore, special management or protection pursuant to 3(5)(A) is not required.

In summary, we find that including these lands addressed in management plans protect essential lynx features and habitat within their boundaries and provide appropriate management to provide for the conservation of lynx and features essential to its conservation over the life of the amendments, revisions or modifications. The management plans have been finalized and incorporate the provisions of the LCAS, which, as described above provides the best, scientifically-based conservation measures for lynx known at this time. Federal land and resource management plans provide the overarching direction under which Federal lands are managed until future plan revisions or plan amendments supercede the current plans. The Flathead Indian Reservation's Forest Management Plan guides forest management on the Reservation lands (CSKT 2000). The conservation measures in the LCAS are intended to conserve lynx and to reduce or eliminate adverse effects from the spectrum of management activities on Federal lands (or other lands where the conservation measures are applied); at this time, there is no other scientifically-based land management guidance available for lynx. Not including areas in the proposed designation that are already being managed for lynx conservation encourages land managers to proactively institute lynx conservation measures and reduces administrative effort and costs associated with engaging in consultations for critical habitat pursuant to section 7 of the Act.

Maps included with this proposal illustrate lands essential to the conservation of the lynx and that may require special management considerations or protection and delineated as proposed critical habitat. More detailed maps show lands determined to be essential to the conservation of the species, which are color coded to clearly show those lands proposed and those not included in this proposal, are available from the Montana Ecological Services Office (see **ADDRESSES** section) or from the Internet at *http://mountain-prairie.fws.gov/species/mammals/lynx/.*

National Forest Service Lands Within Idaho, Montana, and Washington

Seven National Forests are currently covered by the May 2005 Canada Lynx Conservation Agreement are in the process of revising or amending their LRMPs to provide measures for lynx conservation under the LCAS. It is anticipated that all of these plans will be complete prior to promulgation of the final critical habitat designation. As a result, all Federal lands within the seven National Forests have conservation measures or protection for lynx and habitat features essential to the conservation of the lynx. Therefore, Federal lands within these seven National Forests do not meet the definition of critical habitat pursuant to section 3(5)(A) of the Act and thus we are proposing that those areas not be included in the final critical habitat designation The specific National Forests are presented in Table 3.

TABLE 3.—NATIONAL FORESTS COVERED BY THE CANADA LYNX CONSERVATION AGREEMENT

Critical Habitat Unit	
North Cascades	Okanogan—Wenatchee National Forest.
Northern Rocky Mountains	Flathead National Forest. Helena National Forest. Idaho Panhandle National Forests. Kootenai National Forest. Lewis and Clark National Forest. Lolo National Forest.
Minnesota	None.

TABLE 3.—NATIONAL FORESTS COVERED BY THE CANADA LYNX CONSERVATION AGREEMENT—Continued

Critical Habitat Unit	
Maine	None.

Application of Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, impact on national security, and any other relevant impact of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species.

Pursuant to section 4(b)(2) of the Act, we must consider relevant impacts in addition to economic ones. We have determined that no lands being proposed as critical habitat for the lynx are owned or managed by the Department of Defense, and there are currently no Habitat Conservation Plans (HCPs) for the lynx in the areas we are proposing as critical habitat. We anticipate no impact to national security, partnerships, or HCPs from this critical habitat designation.

In a previous section of this rule, we described how lands that had management plans containing adequate management and protection measures for lynx and features essential to its conservation were not included in the proposed critical habitat designation. Several managed areas included in this proposal have habitat with features essential to the conservation of the lynx, but are in the process of amending or revising their management plans to incorporate the LCAS or similar management. These lands could include State lands, Bureau of Land Management lands and National Parks. We may consider areas for exclusion from the final designation of critical habitat, based upon further analysis and public comment, if, prior to the final critical habitat designation, these lands are covered by final management plans that incorporate conservation measures for the lynx (*i.e.*, the LCAS (Ruediger *et al.* 2000) or comparable).

Additionally, we are evaluating the adequacy of existing management plans to conserve lynx on lands designated as wilderness areas or National Parks. Generally, designated wilderness areas are managed to protect their wilderness character and motorized equipment is prohibited. Under the The National Park Service Organic Act of 1916, as amended, the mission of the National Park Service is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by which means as will leave them unimpaired for the enjoyment of future generations. The specific wilderness areas and National Parks under evaluation are presented in Table 4.

TABLE 4.—WILDERNESS AREAS OR NATIONAL PARKS FOR WHICH MANAGEMENT PLANS WILL BE EVALUATED TO DETERMINE THEIR ADEQUACY FOR CONSERVING LYNX

Critical Habitat Unit	Wilderness Area or National Park
Maine	None.
Minnesota	Voyageurs National Park.
Northern Rocky Mountains	Glacier National Park.
	Hoodoo Mountain Wilderness Study Area.
	Wales Creek Wildernesses Study Area.
North Cascades	Glacier Peak Wilderness.
	North Cascades National Park.
	Pasayten Wilderness.
	Stephen P. Mather Wilderness.

Relationship of Critical Habitat to Tribal Lands

In accordance with Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments;'' and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2), we believe that fish, wildlife, and other natural resources on tribal lands are better managed under tribal authorities, policies, and programs than through Federal regulation wherever possible and practicable. Such designation is often viewed by tribes as an unwanted intrusion into tribal self governance, thus compromising the government-to-government relationship essential to achieving our mutual goals of managing for healthy ecosystems upon which the viability of threatened and endangered species populations depend. We believe that conservation of lynx can be achieved off of tribal lands within the critical habitat units or with the cooperation of Tribes.

The amount of tribal lands in the Maine and Minnesota units are relatively small (approximately 86 and 74 mi^2, respectively [223 and 192 km^2]) (Table 5). There are no tribal lands in the North Cascades unit. Therefore, the tribal lands in Maine and Minnesota are being considered for removal from final designation as critical habitat pursuant to section 4(b)(2) of the Act. The Service requests comments from Tribes regarding critical habitat that is being proposed on their lands.

TABLE 5.—TRIBAL LANDS UNDER CONSIDERATION FOR REMOVAL FROM FINAL DESIGNATION AS CRITICAL HABITAT

Critical Habitat Unit	Tribal Entity
Maine	Houlton Band of Maliseet Indians. Aroostook Band of Micmac Indians. Passamaquoddy Tribe. Penobscot Indian Nation.
Minnesota	Grand Portage Indian Reservation. Vermillion Lake Indian Reservation.
Northern Rocky Mountains	None.
North Cascades	None.

Economic Analysis

An analysis of the potential economic impacts of proposing critical habitat for the lynx is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://mountain-prairie.fws.gov/species/mammals/lynx/* or by contacting the Montana Field Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

We have scheduled public hearings on this proposal. Dates, times, and locations of those hearings are listed in the **SUPPLEMENTARY INFORMATION** section, above.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following—(1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to—Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may e-mail your comments to *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630 ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Within the specific areas identified in this proposal, the types of Federal actions or authorized activities that we have identified as potential concerns are listed in the SECTION 7 CONSULTATION section above. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. When it is prepared, the draft economic analysis will be available from the Internet at *http://mountain-prairie.fws.gov/species/mammals/lynx/* or by contacting the Montana Ecological Services Office directly (see **ADDRESSES** section).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Our assessment of economic effect will be completed prior to final rulemaking based upon review of the draft economic analysis prepared

pursuant to section 4(b)(2) of the Act and Executive Order 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn.* v. *U.S. Fish & Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and Executive Order 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (Number 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the lynx is considered a significant regulatory action under Executive Order 12866 as it may raise novel legal and policy issues. However, this designation is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required. We will, however, further evaluate this issue as we conduct our economic analysis and, as appropriate, review and revise this assessment as warranted.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments, because towns and developed areas are excluded from designation. As such, we do not believe that a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Idaho, Maine, Minnesota, Montana, Washington, and Wyoming. We believe that the designation of critical habitat for the lynx will have little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas important to the conservation of the species are more clearly defined, and the primary constituent element of the habitat essential to the survival and conservation of the species is

specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the primary constituent element within the designated areas to assist the public in understanding the habitat needs of the lynx.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the lynx, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service,* 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation and notify the public of the availability of the draft environmental assessment for this proposal.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments,'' and the Department of the Interior Manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. Tribal lands in the Maine and Minnesota units are included in this proposed designation; however, these tribal lands are being considered for removal from final designation as critical habitat. The Service requested information from Tribes for this proposed rule and has made potentially affected Tribes aware of this proposed rule.

References Cited

A complete list of all references cited in this rulemaking is available on the Web site *http://mountain-prairie.fws.gov/species/mammals/lynx/* or upon request from the Field Supervisor, Montana Field Office (see **ADDRESSES**).

Author(s)

The primary author of this package is the U. S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), revise the entry for ''Lynx, Canada'' under ''MAMMALS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Lynx, Canada	*Lynx canadensis*	U.S.A. (AK, CO, ID, ME, MI, MN, MT, NH, NY, OR, PA, UT, VT, WA, WI, WY), Canada, circumboreal.	CO, ID, ME, MI, MN, MT, NH, NY, OR, UT, VT, WA, WI, WY.	T	692	17.95(a)	17.40(k)
*	*	*	*	*	*		*

3. In § 17.95(a), add critical habitat for ''Canada lynx'' in the same alphabetical order as this species occurs in § 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

* * * * *

Canada lynx (*Lynx canadensis*)

(1) Critical habitat units are depicted on the maps below for the following States and counties:

(i) Idaho: Boundary County;

(ii) Maine: Aroostook, Franklin, Penobscot, Piscataquis and Somerset counties;

(iii) Minnesota: Cook, Koochiching, Lake, and St. Louis counties;

(iv) Montana: Flathead, Glacier, Granite, Lake, Lewis and Clark, Lincoln, Missoula, Pondera, Powell and Teton counties; and

(v) Washington: Chelan and Okanogan counties.

(2) Within these areas, the primary constituent elements for the Canada lynx are boreal forest landscapes supporting a mosaic of differing successional forest stages and containing:

(i) Presence of snowshoe hares and their preferred habitat conditions, which includes dense understories of young trees or shrubs tall enough to protrude above the snow; and

(ii) Winter snow conditions that are generally deep and fluffy for extended periods of time; and

(iii) Sites for denning having abundant coarse woody debris, such as downed trees and root wads.

(3) Critical habitat does not include waterbodies, including lakes, reservoirs or rivers, or human-made structures existing on the effective date of this rule, such as buildings, airports, paved and gravel roadbeds, active railroad beds and the land on which such structures are located. Critical habitat does not include Federal lands within the Okanogam-Wenatchee, Flathead, Helena, Idaho Panhandle, Kootenai, Lewis and Clark, and Lolo National Forests. Critical habitat does not include the following towns:

(i) *Idaho:* None.

(ii) *Maine:* Allagash, Ashland, Attean (historical), Attean Landing, Back Settlement, Batesville, Blackstone, Blackwater, Blair, Boat Landing Camp, Bradbury, Brassua, Buffalo, Burnt Landing, Burnt Mill, Chapman, Chesuncook, Clayton Lake, Daaquam, Deadmans Corner, Dennistown, Dickey, Dudley, Dyerville, Eagle Lake, Estcourt, Frenchville, Grassy Landing, Greenlaw Crossing, Grindstone, Griswold, Hawkins, Hay Brook, High Landing, Hillman, Holeb, Howe Brook, Huson Landing, Jackman, Jackman Mill (historical), Jones Mill, Jones Mill, Keough, Knowles Corner, Kokadjo, La Croix Depot, Lac Frontiere, Lake Parlin (historical), Little Canada, Long Pond, Lowelltown, Mackamp, Masardis, McCarty, McKeen Crossing, McNally, Moose River, Moosehead, Moosehorn Crossing, Morey Brow, New City, Nixon, North East Carry, Ogontz, Old City, Oxbow, Perkins, Pine Knoll, Plaisted, Plourde Mill, Poplar Ripps, Portage, Pride, Quimby, Rand Landing, Rockwood, Round Mountain, Russell Crossing, Saint Francis, Saint John, Sheridan, Shorey, Skerry, Skinner, Smyrna Center, Soldier Pond, Somerset Junction, Squa Pan, Stephensons Landing, Tarratine, The Crossing, Walker, Three Streams, Wallagrass, Weeksboro, Wheelock, Wheelock Mill, Winterville.

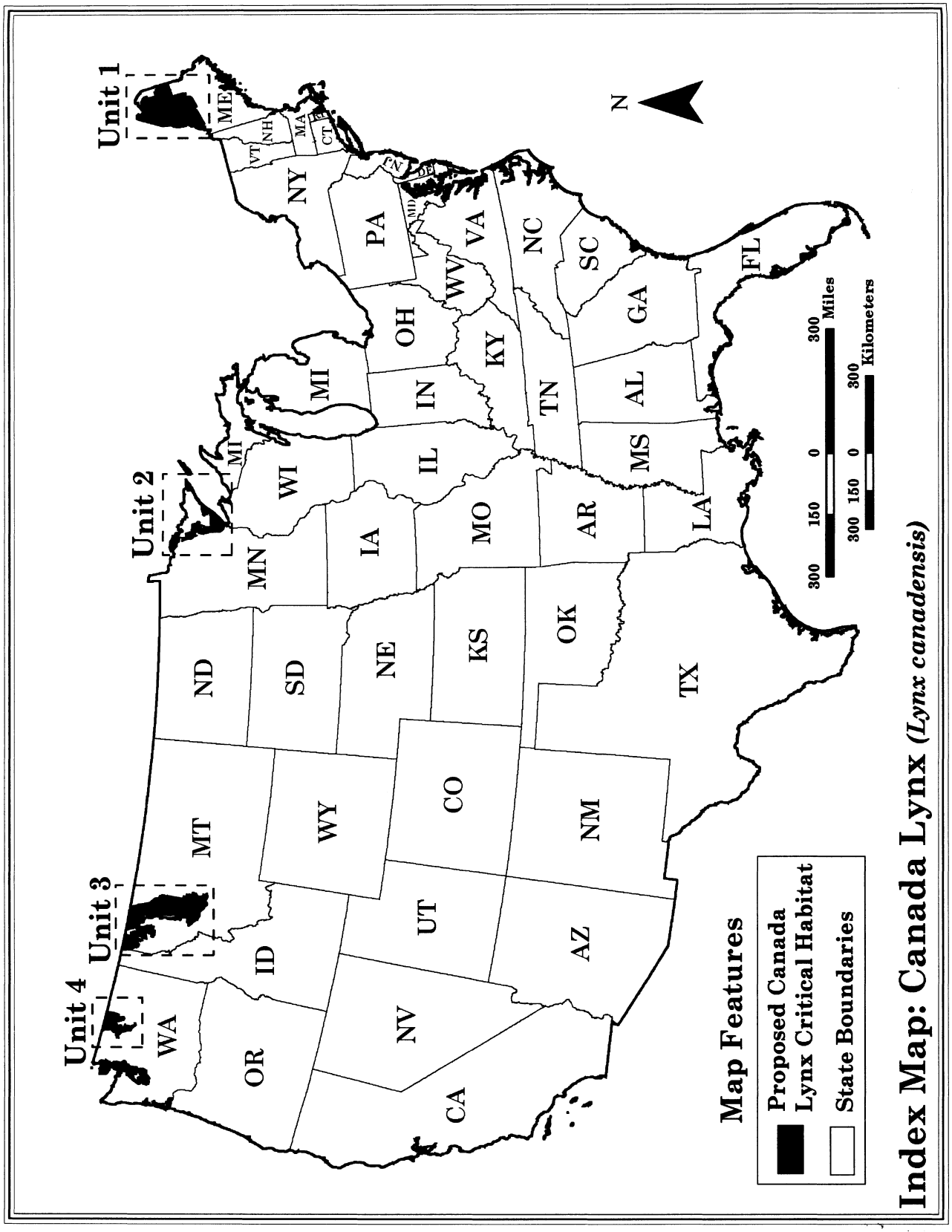
(iii) *Minnesota:* Alger, Allen, Angora, Arnold, Aurora, Babbitt, Baptism Crossing, Bartlett, Beaver Bay, Beaver Crossing, Belgrade, Bell Harbor, Biwabik, Brimson, Breda, Britt, Burntside, Burntside Lake, Buyck, Canyon, Castle Danger, Chippewa City, Clappers, Clifton, Cook, Cotton, Covill, Cramer, Crane Lake, Croftville, Cusson, Darby Junction, Duluth, Duluth Heights, Eagles Nest, East Beaver Bay, Ely, Embarrass, Fairbanks, Falls Junction, Finland, Forest Center, Forsman, Four Corners, Fredenberg, French River, Gappas Landing Campground, Genoa, Gheen, Gheen Corner, Gilbert, Glendale, Grand Portage, Grand Marais, Greenwood Junction, Haley, Happy Wanderer, Highland, Hornby, Hovland, Hunters Park, Idington, Illgen City, Isabella, Island View, Jameson, Jay See Landing, Jordan, Kabetogama, Kelly Landing, Kettle Falls, Knife River, Lakewood, Larsmont, Lauren, Lax Lake, Leander, Lester Park, Little Marais, Little Marais Postoffice, London, Makinen, Lutsen, Manitou Junction, Maple, Maple Hill, Markham, Martin Landing, McComber, McNair, Melrude, Midway, Murphy City, Murray, Norshor Junction, Orr, Palmers, Palo, Peyla, Pigeon River, Pineville, Prairie Portage, Ranier, Red Rock, Reno, Robinson, Rollins, Rothman, Salo Corner, Sawbill Landing, Schroeder, Scott Junction, Section Thirty, Sha-Sha Resort, Shaw, Silver Bay, Silver Creek, Silver Rapids, Skibo, Soudan, South International Falls, Sparta, Spring Lodge Resort and Marina, Stewart, Taconite Harbor, Taft, Thunderbird Resort, Tofte, Toimi, Tower, Tower Junction, Two Harbors, Wahlsten, Wakemup, Waldo, Wales, Wheeler Landing, White Iron, Whiteface, Whyte, Winter, Winton, Woodland, York.

(iv) *Montana:* Avon, Elliston, Garrison, Helmville, Lincoln, Ovando, Seeley Lake, Summit, Woodworth.

(v) *Washington:* None.

(4) **Note:** Index map for lynx critical habitat follows:

BILLING CODE 4310–55–P

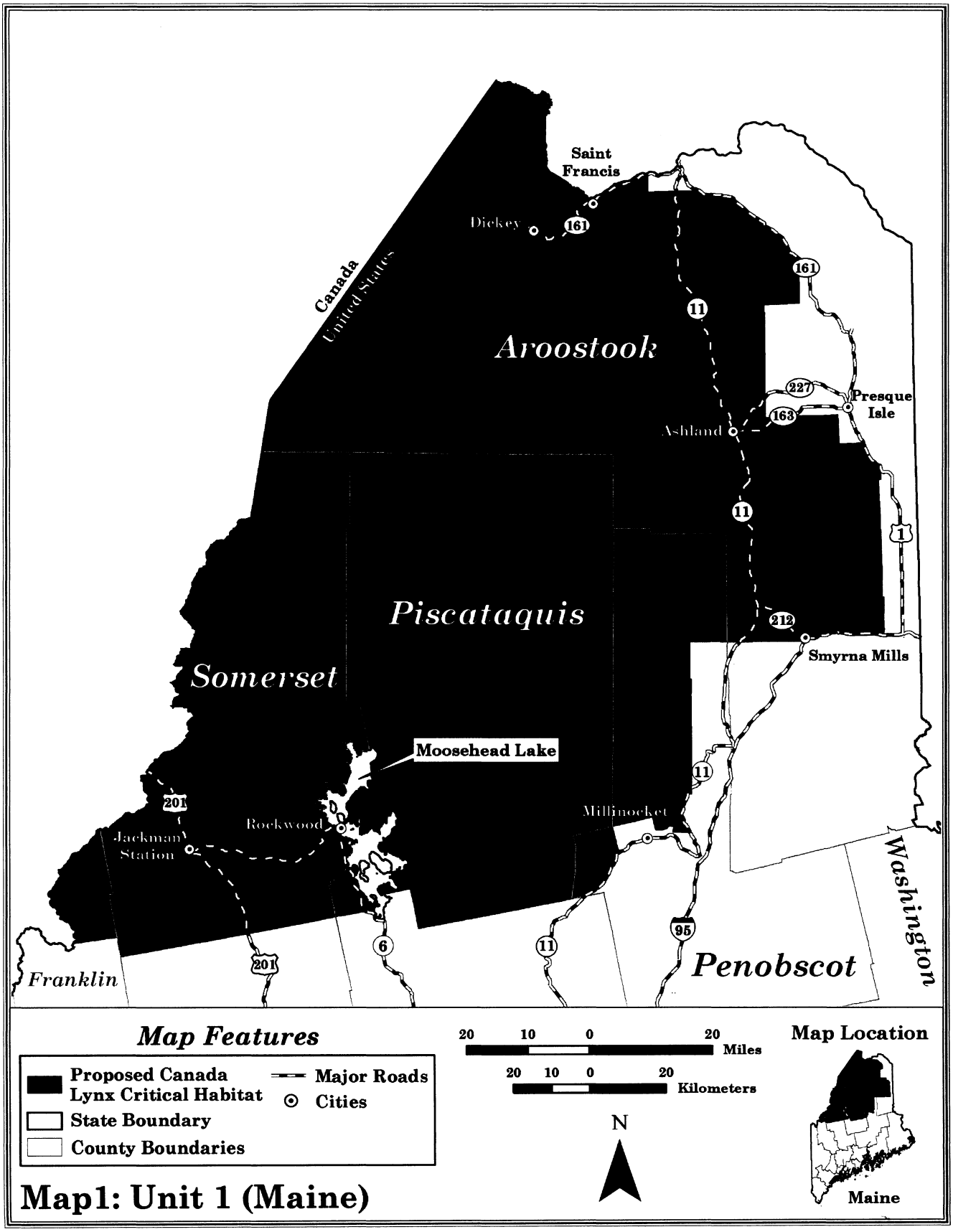


BILLING CODE 4310–55–C

(5) Unit 1: Maine Unit; Aroostook, Franklin, Penobscot, Piscataquis, and Somerset Counties, Maine.

(i) Coordinate projection: UTM, NAD83, Zone 19, Meters. Coordinate definition: (easting, northing). Starting at Maine/Canada Border (SW corner of Merrill Strip Twp.) (371910, 5028021), follow township boundary east to SE corner of Skinner Twp. (383434, 5029673). Follow township boundary SE to SW corner of T5 R6 Twp. (383438, 5029673). Follow township boundaries NE to boundary of Moosehead Lake (450963, 5036788). Follow Moosehead Lake boundary to intersection with Beaver Cove Twp. (452704, 5040915). Follow township boundary to Moosehead Lake boundary (453125, 5040999). Follow Moosehead Lake boundary to township boundary (453705, 5041123). Follow township boundary to NW corner of Bowdoin College Grant West Twp. (460415, 5042546). Follow township boundary to SW corner of township (462537, 5032002). Follow township boundaries to intersection with State Highway 11 in Long A Twp. (506181, 5040542). Follow State Highway 11 NE to intersection with T4 Indian Purchase Twp. boundary (515204, 5052175). Follow township boundary NW to SW corner of T1 R8 Twp. (513460, 5059043). Follow township boundary NE to intersection with Grindstone Twp. boundary (523967, 5061550). Follow township boundary south and east to intersection with State Highway 11 (533826, 5057404). Follow State Highway 11 north to intersection with Soldiertown Twp. boundary (533178, 5067644). Follow township boundary east to SE corner of township (534261,5067639), then follow township boundaries north to SE corner of T6 R7 Twp. (533735, 5108030). Follow township boundaries east to intersection with U.S. Highway 2 (563731, 5108104). Follow U.S. Highway 2 to intersection with New Limerick Twp. boundary (584664, 5109885). Follow township boundaries north to intersection with U.S. Highway 1 (583834, 5153895). Follow U.S. Highway 1 NW to intersection with Westfield Twp. boundary (579218, 5160782). Follow township boundary west to intersection with Chapman Twp. boundary (572903, 5160530). Follow township boundary north to NE corner of township (572577, 5168198). Follow township boundaries west to intersection with Ashland Twp. boundary (553502, 5167377). Follow township boundaries north to SW corner of Westmanland Twp. (553279, 5197228). Follow township boundary east to SE corner of township (562523, 5197586). Follow township boundaries north to intersection with State Highway 161 (562361, 5209395). Follow State Highway 161 NE to New Canada Twp. boundary (536315, 5227346). Follow township boundaries west to NW corner of Wallagrass Twp. (522883, 5227037). Follow township boundaries north to Maine/Canada border (522876, 5231986). Follow Maine/Canada border to beginning.

(ii) **Note:** Map 1 of Unit 1 (Maine) follows:



Map1: Unit 1 (Maine)

BILLING CODE 4310–55–C

(6) Unit 2: Minnesota Unit; Cook, Koochiching, Lake, and St. Louis Counties, Minnesota.

(i) Unit 2 is divided into seven subunits to facilitate description. In addition, because the boundaries of several subunits are defined in part by the Lynx Analysis Units (LAUs) of Superior National Forest, and those subunits are very complex, in some cases we approximated those boundaries using public land survey lines for ease in description and public utility except where the LAUs already followed recognizable features.

(ii) *Subunit 1.* Beginning where the United States and Canadian boundaries intersect with the west side of Section 31, Township 68 North, Range 16 West in Sand Point Lake, then proceeding along the west side of said section to landfall along said lake; thence westerly along the shoreline of Sand Point Lake to where it becomes the east shore of King Williams Narrows in Section 1, Township 67 North, Range 17 West; thence southerly along King Williams Narrows to a point defined by UTM coordinates 539818, 5350111 (NAD 1983, Zone 15 North); thence westerly to first landfall in Section 12, Township 67 North, Range 17 West; thence proceeding westerly along the shore of Crane Lake to a point defined by UTM coordinates 536693, 5350743 (NAD 1983, Zone 15 North); from said point westerly to the southwest corner of Section 3, Township 67 North, Range 17 West; thence along the west boundary of said section to the southeast corner of Section 33, Township 68 North, Range 17 West; thence along the south boundary of said section and Section 32, Township 68 North, Range 17 West to the shore of Johnson Lake in Section 31, Township 68 North, Range 17 West; thence northwesterly along the shore of Johnson Lake to where it meets the Spring Lake drainage in Section 23, Township 68 North, Range 18 West; thence northwesterly along said drainage to the shoreline of Spring Lake; thence along the shoreline of Spring Lake to its intersection with the east boundary of Section 15, Township 68 North, Range 18 West; thence north along the east boundary of said section to the southeast corner of Section 10, Township 68 North, Range 18 West; thence west along the south boundary of said section and of Sections 7, 8, and 9, Township 68 North, Range 18 West to the southeast corner of Section 12, Township 68 North, Range 19 West; thence along the east boundaries of Sections 13, 24, 25, and 36, Township 68 North, Range 19 West and Sections 1 and 13, Township 67 North, Range 19 West to the southeast corner of Section 13, Township 67 North, Range 19 West; thence along the south boundaries of Sections 2 and 3, Township 67 North, Range 19 West; thence proceeding along the east, south, and west boundaries of Section 9, Township 67 North, Range 19 West; thence along the south and west boundaries of Section 5, Township 67 North, Range 19 West; thence along the north boundary of Section 6, Township 67 North, Range 19 West, and Sections 1–6, Township 67 North, Range 20 West to the intersection of the north boundary of Section 6, T67 North, Range 20 West and United States Highway 53; thence northerly along United States Highway 53 to the United States and Canadian boundaries; thence easterly along the Canadian Border to the point of beginning in Sand Point Lake.

(iii) *Subunit 2.* Beginning at the northeast corner of Section 35, Township 67 North, Range 19 West, proceeding south along the east boundary of said Section and of Sections 2, 11, 14, 23, 26, and Section 35, Township 66 North, Range 19 West to the southeast corner of Section 35, Township 66 North, Range 19 West; thence along the south boundary of said Section of Sections 34, 33, 32, and 31, Township 66 North, Range 19 West to the southeast corner of Section 36, Township 66 North, Range 20 West; thence south along the east boundaries of Sections 1, 12, and 13, Township 65 North, Range 20 West to the point at which the east boundary of Section 13, Township 65 North, Range 20 West intersects with United States Highway 53; thence northwesterly along United States Highway 53 to its intersection with the north boundary of Section 5, Township 66 North, Range 20 West; thence east along the north boundary of said Section and of Sections 4, 3, 2, 1, Township 66 North, Range 20 West and of Sections 6 and 5, Township 66 North, Range 10 West to the northeast corner of Section 5, Township 66 North, Range 19 West; thence south along the east boundary of said Section to the northeast corner of Section 8, Township 66 North, Range 19, West; thence east along the north boundary of Section 9, Township 66 North, Range 19 West; thence north along the east boundary of Section 3, Township 66 North, Range 19 West; thence east along the north boundary of said Section; thence along the east and north boundaries of Section 35, Township 67 North, Range 19 West to the point of beginning at the northeast corner of said Section.

(iv) *Subunit 3.* Beginning at the northeast corner of Section 15, Township 63 North, Range 12 West proceeding south along the east boundary of said Section; thence proceeding along the north boundaries of Sections 23 and 24, Township 63 North, Range 12 West and Section 19, Township 63 North, Range 11 West; thence south along the east boundary of said Section; thence east along the north boundary of Section 29, Township 63, Range 11 West and south along the east boundary of said Section and of Section 32, Township 63, Range 11 West; thence along the south boundary of said Section and of Section 31, Township 63 North, Range 11 West; thence south along the east boundary of Section 1, Township 62 North, Range 12 West; thence west along the south boundary of said Section; thence south along the east boundary of Section 11, Township 62 North, Range 12 West; thence along the south boundary of said Section and of Section 10 of said Township; thence proceeding north along the west boundary of said Section; thence west along the south boundaries of Sections 4, 5, and 6, Township 62 North, Range 12 West and of Sections 1 and 2, Township 62 North, Range 13 West; thence north along west boundary of Section 2, Township 62 North, Range 13 West; thence along the south boundary of Section 34, Township 63 North, Range 13 West; thence north along the west boundary of said Section and of Sections 27 and 22 of said Township; thence along the north boundaries of Sections 22 and 23, Township 63 North, Range 13 West; thence north along the west boundary of Section 13, Township 63 North, Range 13 West; thence along the north boundaries of said Section and of Sections 18, 17, 16, and 15, Township 63 North, Range 12 West point of beginning at the northeast corner of section 15 of said Township.

(v) *Subunit 4.* Sections 29 and 31, Township 60 North, Range 12 West and Section 36, Township 60 North, Range 13 West.

(vi) *Subunit 5.* Sections 7, 18, 19, Township 59 North, Range 13 West and Sections 24–26, Township 59 North, Range 14 West.

(vii) *Subunit 6.* Section 18, Township 58 North, Range 17 West.

(viii) *Subunit 7.* Beginning at the northeast corner of Section 15, Township 65 North, Range 17 West proceeding south along the east boundary of said Section and of Section 22 of said Township; thence along the north boundary of Section 26,Township 65 North, Range 17 West and along the east boundary of said Section and of Section 35 of said Township; thence along the north boundary of Section 2, Township 64 North, Range 17 West; thence south along the east boundary of said Section and of Section 11 of said Township; thence along the north

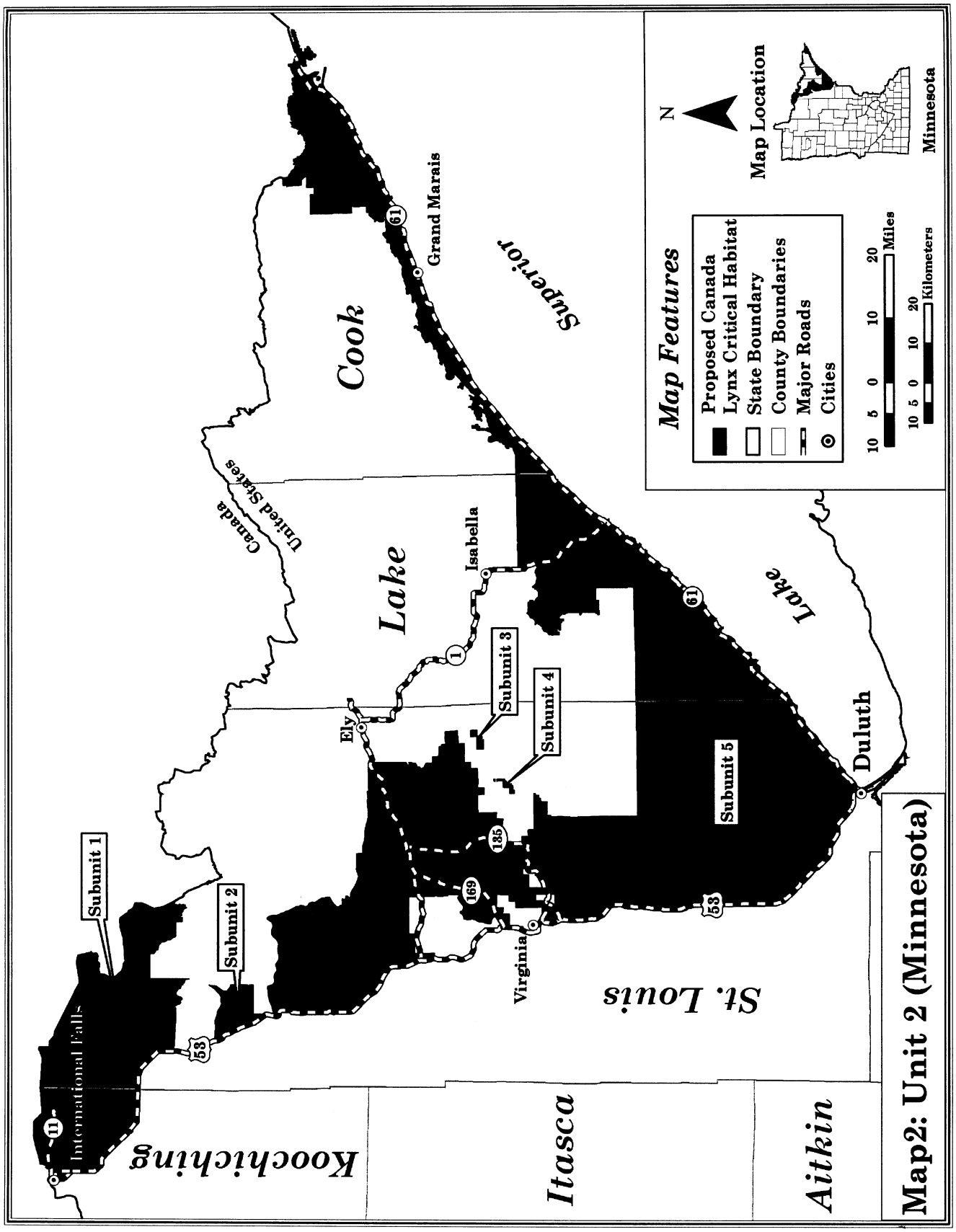
boundary of Section 13, Township 64 North, Range 17 West; thence south along the east boundaries of said Section and of Sections 24, 25, and 35 of said Township and of Sections 1 and 12 of Township 63 North, Range 17 West; thence east along the north boundary of Section 18, Township 63 North, Range 16 West; thence south along the east boundary of said Section; thence along the north boundaries of Section 20 and 21, Township 63 North, Range 16 West; thence along the east boundary of Section 27, Township 63 North, Range 16 West and along the north boundary of Section 27, Township 63 North, Range 16 West; thence along the west, north and east boundaries of Section 23,Township 63 North, Range 16 West; thence along the north boundaries of Sections 25 and 30 of said Township; thence along the east boundary of Section 30 of said Township; thence along the north boundaries of Sections 32–36, Township 63 North, Range 15 West and of Sections 31–35, Township 63 North, thence along the east boundary of Section 35, Township 63 North, Range 14 West and eastward along the north boundaries of Section 1, Township 62 North, Range 14 West and of Sections 6, 5, and 4,Township 62 North Range 13 West; thence south along the east boundaries of Sections 4, 9, 16, 21, 28, and 33, Township 62 North, Range 13 West and of Sections 4, 9, 16, and 21, Township 61 North, Range 13 West; thence along the north boundary of Section 27, Township 61 North, Range 13 West; thence along the east boundary of said Section; thence along the north boundaries of Sections 35 and 36, Township 61 North, Range 13 West; thence along the east boundary of Section 36, Township 61 North, Range 13 West; thence along the north boundary of Sections 6 and 5, Township 60 North, Range 12 West; thence along the east boundaries of Sections 5 and 8, Township 60 North, Range 12 West; thence along the south boundaries of Sections 8 and 7, Township 60 North, Range 12 West; thence along the east boundary of Section 13, Township 60 North thence along the south boundary of Section 13, 14, and 15, Township 60 North, Range 13 West; thence along the east boundary of Section 21, Township 60 North, Range 13 West; thence along the east boundary of Section 29, Township 60 North, Range 13 West; thence along the south boundaries of Sections 29 and 30, Township 60 North, Range 13 West and of Section 25, Township 60 North, Range 14 West; thence along the east boundary of Section 35, Township 60 North, Range 14 West; thence along the south boundary of said Section, proceeding north along the west boundary of said Section: thence along the southern boundaries of Sections 27, 28, and 29, Township 60 North, Range 14 West; thence along the east boundaries of Section 31 of said Township and of Sections 6 and 7, Township 59 North, Range 14 West; thence along the south boundary of Section 7 of said Township; thence along the east boundary of Section 13, Township 59 North, Range 15 West; thence along the south boundaries of Sections 13, 14, 15, and 16 of said Township; thence along the east boundaries of Sections 20, 29, and 32, Township 59 North, Range 15 West; thence along the north boundary of Section 4, Township 58 North, Range 15 West; thence along the east boundary of said Section; thence along the north boundary of Section 10 of said Township and then along the east boundary of said Section; thence along the north boundaries of Sections 14 and 13, Township 58 North, Township 15 West, and of Sections 18, 17, 16, and 15, Township 58 North, Range 14 West; Township hence south along the east boundary of Section 15 of said Township and then along the south boundary of said Section; thence south along the east boundary of Section 21, Township 58 North, Range 14 West; thence along the east boundary of Section 36, Township 58 North, Range 15 West of Township 57 North, Range 15 West, and of Township 56 North, Range 15 West; thence along the north boundaries of Township 55 North, Range 14 West; Township 55 North, Range 13 West; Township 55 North, Range 12 West; Township 55 North, Range 11 West; Township 55 North, Range 10 West; Township 55 North, Range 9 West; thence north along t he west boundary of Township 56 North, Range 8 West; thence along the north boundary of Section 1 and 2, Township 56 North, Range 9 West; thence along the east boundaries of Sections 3, 4, and 5, Township 56 North, Range 9 West; thence along the west boundary of Section 5 of said Township; thence along the north boundary of said Section; thence along the east boundaries of Sections 32 and 29, Township 57 North, Range 9 West; thence along the south boundary of Section 20 of said Township; thence along the east and then the north boundaries of said Section; thence along the east boundary of Section 17, Township 57 North, Range 9 West; thence along the north boundary of said Section; thence along the west boundary of Section 8 of said Township; thence along the south boundaries of Section 6 of said Township and of Sections 1 and 2, Township 57 North, Range 10 West; thence along the west boundaries of Section 2 of said Township and of Sections 35 and 26, Township 58 North, Range 10 West; thence along the north boundary of Section 26 of said Township, along the west boundary of Section 24 of said Township and then along the north boundary of said Section; thence along the west boundary of Section 18, Township 58 North, Range 9 West; thence along the north boundary of said Section; thence along the west boundary of Section 8 of said Township; thence along the north boundary of Sections 8, 9, and 10 of said Township; thence along the east boundary of Section 10, Township 58 North, Range 9 West; thence along the north boundary of Sections 14 and 13, Township 58 North, Range 9 West and of Sections 18, 17, and 16, Township 58 North, Range 8 West; thence along the west boundary of Sections 10 and 3, Township 58 North, Range 8 West; thence along the north boundary of Sections 3, 2, and 1, Township 58 North, Range 8 West and of Township 58 North, Range 7 West and of Township 58 North, Range 6 West and of Sections 6, 5, and 4, Township 58 North, Range 5 West; thence along the west boundary of Section 34, Township 59 North, Range 5 West; thence along the north boundary of said Section; thence along the west boundary of Section 26 of said Township; thence along the north boundary of said Section; thence, along the west boundaries of Sections 24, 13, and 12 of said Township; thence along the north boundary of section 12, Township 59 North, Range 5 West and of Section 7, Township 59 North, Range 4 West; thence along the west boundary of Section 5, Township 59 North, Range 4 West; hence along the north and east boundaries of said Section; thence along the north boundary of Section 4, Township 59 North, Range 4 West; Township hence along the west boundary of Section 34, Township 60 North, Range 4 West; Township hence along the north boundary of said Section; thence along the west, north, and east boundary of Section 26, Township 60 North, Range 4 West; thence along the north boundary of Section 36, Township 60 North, Range 4 West and of Section 31, Township 60 North, Range 3 West; Township hence along the west boundaries of Sections 29 and 20 of said Township; thence along the north boundaries of Sections 20 and 21 of said Township; thence along the west boundaries of Sections

15 and 10 of said Township; thence along the north boundaries of Sections 10 and 11 of said Township; thence along the west boundary of Section 1 of said Township; thence along the north boundary of said Section and of Sections 6 and 5, Township 60 North, Range 2 West; Township hence along the west and north boundaries of Section 33, Township 61 North, Range 2 West; thence along the west and north boundaries of Section 27 of said Township; thence along the west and north boundaries of Section 23 of said Township; thence along the west, north, and east boundaries of Section 13 of said Township; thence along the north boundaries of Sections 19, 20, and 21, Township 61 North, Range 1 West; thence along the west and north boundaries of Section 15 of said Township; thence along the west and north boundaries of Section 11 of said Township and of Sections 12, 7, 8, and 9, Township 61 North, Range 1 East; thence along the west and north boundaries of Section 3 of said Township and along the north boundary of Section 2 of said Township; thence along the west and north boundary of Section 36, Township 62 North, Range 1 East and along the north boundary of Section 31, Township 62 North, Range 2 East; thence along the west boundary of Section 29, T62 North, Range 2 East; thence along the north boundary of said Section and of Sections 28 and 27 of said Township; thence along the west and north boundary of Section 23 of said Township; thence along the west and north boundaries of Section 13, Township 62 North, Range 2 East and of Section 18, Township 62 North, Range 3 East thence along the west boundaries of Sections 8 and 5, Township 62 North, Range 3 East; thence along the south boundary of Section 31, Township 63 North, Range 3 East; thence along the west boundaries of Sections 31, 30, 19, 18, 7, and 6, Township 63 North, Range 3 East, and of Section 31, Township 64 North, Range 3 East; thence along the north boundaries of Sections 31, 32, and 33 of said Township; thence along the west, south, and east boundaries of Section 34 of said Township; thence along the west boundaries of Section 26, 23, 14, and 11, Township 64 North, Range 3 East; thence along the north boundaries of Sections 11 and 12, Township 64 North, Range 3 East to where the United States and Canadian boundaries intersect; thence southeasterly along the United States boundary to where it meets the mouth of the Pigeon River at Pigeon Bay along the intersection of Sections 28 and 29, Township 64 North, Range 7 East; thence easterly along and around Pigeon Point; thence westerly along the shoreline of Lake Superior to the mouth of the Lester River; thence northerly along said river to the east boundary of Section 5, Township 50 North, Range 13 West; thence northward along the east boundary of said Section; thence along the north boundaries of Sections 5 and 6 of said Township and of Sections 1, 2, and 3, Township 50 North, Range 14 West; thence along the west boundaries of Sections 3 and 10 of said Township; thence along the south boundaries of Sections 9, 8, and 7 of said Township and of Section 12, Township 50 North, Range 15 West to its intersection with U.S. Highway 53 to its intersection with the north boundary of Section 20, Township 58 North, Range 17 West; thence eastward along the north boundaries of Sections 20, 21, and 22, Township 58 North, Range 17 West; thence along the west boundaries of Sections 14, 11, and 2, Township 58 North, Range 17 West and of Section 35, Township 59 North, Range 17 West; thence along the north boundary of said Section; thence along the west and north boundaries of Section 25 of said Township; thence along the west boundaries of Sections 19 and 18, Township 59 North, Range 16 West; thence along the south boundaries of Sections 12 and 11, Township 59 North, Range 17 West; thence along the east and south boundaries of Section 15 of said Township; thence along the east boundary of Section 21 of said Township; thence along the south boundaries of Sections 21, 20, and 19 of said Township to the intersection of the latter Section's south boundary with U.S. Highway 53; thence northerly along U.S. Highway 53 to its intersection with the west boundary of Section 17, Township 59 North, Range 17 West; thence northward along the west boundaries of Sections 17, 8, and 5 of said Township to the south boundary of Section 31, Township 60 North, Range 17 West; thence along the south boundary of said Section to the southwest corner of Section 32 of said Township; thence along the north boundary of Section 29 of said Township; thence along the west boundaries of Sections 21 and 16 of said Township; thence along the north boundaries of Sections 16, 15, 14, and 13 of said Township; thence along the west boundaries of Township 60 North, Range 16 West and of Township 61 North, Range 16 West; thence along the south boundary of Township 62 North, Range 17 West; thence along the east and south boundaries of Section 1, Township 61 North, Range 18 West; thence along the south boundaries of Sections 2 and 3 of said Township; thence along the east boundaries of Sections 9, 16, and 21 of said Township; thence along the south boundary of Section 21 of said Township to its intersection with U.S. Highway 53; thence northerly along U.S. Highway 53 to its intersection with the west boundary of S18, Township 65 North, Range 19 West; thence southward along said boundary; thence along the south boundary of said Section; thence along the west boundary of Section 17, Township 65 North, Range 19 West; thence along the north boundaries of Sections 17, 16, 15, and 14 of said Township; thence along the east boundary of Section 14 of said Township; thence along the north boundaries of Section 24 of said Township and of Sections 19, 20, and 21, Township 65 North, Range 18 West; thence along the west boundary of Section 22 of said Township; thence along the north boundaries of Sections 22, 23, and 24 of said Township; thence along the east boundary of said Township; thence along the north boundaries of Sections 18, 17, 16, and 15, Township 65 North, Range 17 West, to the point of beginning at the northeast corner of Section 15, Township 65 North, Range 17 West.

(ix) Within the subunits described in (6)(ii) to (6)(xiii) above, the following areas are not included in the critical habitat designation: Township 58 North, Range 16 West, Sections 3, 8, 9, 10, 16, and 17; and Township 58 North, Range 17 West, Sections 16, 24, 25, and 26.

(x) **Note:** Map 2 of Unit 2 (Minnesota) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit 3: Northern Rocky Mountains Unit; Boundary County, Idaho; Flathead, Glacier, Granite, Lake, Lewis and Clark, Lincoln, Missoula, Pondera, Powell and Teton counties, Montana.

(i) Coordinate Projection: UTM, NAD83, Zone 12, Meters. Coordinate Definition: (easting, northing). Unit 3 is divided into 18 subunits to facilitate description.

(ii) *Subunit 1.* Starting at the intersection of the Idaho/Canada border and 4000 feet elevation contour (122032, 5440460), follow the 4000 feet elevation contour to intersection with Montana/Canada border (151617, 5438492). Follow Montana/Canada border west to intersection with 4000 feet elevation contour (147739, 5438749). Follow 4000 feet elevation contour to intersection with Montana/Canada border (147356, 5438775). Follow Idaho/Montana/Canada border west to beginning. This area is found within the following USGS 1:24000 Quads; Eastport, Canuck Peak, Northwest Peak, Garver Mountain, Bonnet Top, Yaak, Clark Mountain, Mount Baldy, Line Point, Meadow Creek, Curley Creek, and Newton Mountain.

(iii) *Subunit 2.* Starting at the intersection of the Montana/Canada border and 4000 feet elevation contour (152307, 5438447), follow the 4000 feet elevation contour to intersection with Montana/Canada border (157205, 5438130). Follow Montana/Canada border west to beginning. This area is found within the following USGS 1:24000 Quads; Garver Mountain and Bonnet Top.

(iv) *Subunit 3.* Starting at coordinate (158408, 5437023), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quad; Bonnet Top.

(v) *Subunit 4.* Starting at coordinate (160775, 5430791), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Bonnet Top and Mount Henry.

(vi) *Subunit 5.* Starting at coordinate (161176, 5427344), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Bonnet Top, Mount Henry, Yaak, and Lost Horse Mountain.

(vii) *Subunit 6.* Starting at the intersection of the Montana/Canada border and 4000 feet elevation contour (163418, 5437730), follow the 4000 feet elevation contour to intersection with Montana/Canada border (186741, 5436254). Follow Montana/Canada border west to beginning. This area is found within the following USGS 1:24000 Quads; Mount Henry, Robinson Mountain, Red Mountain, Webb Mountain, Boulder Lakes, Lost Horse Mountain, Yaak, Clark Mountain, Mount Baldy, Sylvanite, Flatiron Mountain, Pink Mountain, Parsnip Mountain, Inch Mountain, Volcour, Ural, Banfield Mountain, Gold Hill, Turner Mountain, Alexander Mountain, and Vermiculite Mountain.

(viii) *Subunit 7.* Starting at coordinate (143538, 5402032), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Sylvanite, Flatiron Mountain, Turner Mountain, Pulpit Mountain, Kilbrennan Lake, Kootenai Falls, and Scenery Mountain.

(ix) *Subunit 8.* Starting at coordinate (154367, 5393646), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Turner Mountain, Gold Hill, Libby, and Scenery Mountain.

(x) *Subunit 9.* Starting at coordinate (174032, 5379043), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Vermiculite Mountain and Alexander Mountain.

(xi) *Subunit 10.* Starting at coordinate (199737, 5417559), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Webb Mountain, Beartrap Mountain, Eureka South, Inch Mountain, McGuire Mountain, Pinkham Mountain, Edna Mountain, Volcour, Davis Mountain, Skillet Mountain, Alexander Mountain, Cripple Horse Mountain, Warland Peak, Bowen Lake, Tony Peak, Richards Mountain, Wolf Prairie, and Fisher Mountain.

(xii) *Subunit 11.* Starting at coordinate (217651, 5399051), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Stryker, Skillet Mountain, Sunday Mountain, Radnor, Bowen Lake, Dunsire Point, Johnson Peak, Tally Lake, Wolf Prairie, Horse Hill, Sylvia Lake, Ashley Mountain, Lost Creek Divide, Rhodes, Deer Creek, Lynch Lake, Dahl Lake, Pleasant Valley Mountain, Lone Lake, Blue Grass Ridge, Thompson Lakes, Meadow Peak, McGregor Peak, Marion, Haskill Mountain, and Kila.

(xiii) *Subunit 12.* Starting at the intersection of the Montana/Canada border and 4000 feet elevation contour (205956, 5435192), follow the 4000 feet elevation contour to intersection with Montana/Canada border (245279, 5433300). Follow Montana/Canada border west to beginning. This area is found within the following USGS 1:24000 Quads; Eureka North, Ksanka Peak, Stahl Peak, Tuchuck Mountain, Mount Hefty, Trailcreek, Polebridge, Whale Buttes, Red Meadow Lake, Mount Thompson-Seton, Mount Marston, Fortine, Stryker, Bull Lake, Upper Whitefish Lake, Moose Peak, Cyclone Lake, Demers Ridge, Huckleberry Mountain, Skookoleel Creek, Werner Peak, Olney, Beaver Lake, Whitefish, and Columbia Falls North.

(xiv) *Subunit 13.* Starting at coordinate (263061, 5395697), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Demers Ridge and Huckleberry Mountain.

(xv) *Subunit 14.* Starting at coordinate (269763, 5390173), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; McGee Meadow, Huckleberry Mountain, and Hungry Horse.

(xvi) *Subunit 15.* Starting at coordinate (268105, 5372525), follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quads; Columbia Falls North and Hungry Horse.

(xvii) *Subunit 16.* Starting at the intersection of the Montana/Canada border and 4000 feet elevation contour (247220, 5433213), follow the 4000 feet elevation contour to intersection with tribal land boundary (275116, 5307842). Follow tribal land boundary to intersection with 4000 feet elevation contour (266686, 5214358). Follow 4000 feet elevation contour to intersection with tribal land boundary (266018, 5213465). Follow tribal land boundary to intersection with 4000 feet elevation contour (265946, 5213282). Follow 4000 feet elevation contour to intersection with BLM boundary (296279, 5202322). Follow BLM boundary to intersection with 4000 feet elevation contour (296556, 5202312). Follow 4000 feet elevation contour to intersection with BLM boundary (297281, 5202285). Follow BLM boundary to intersection with 4000 feet elevation contour (297438, 5202279). Follow 4000 feet elevation contour to intersection with BLM boundary (297573, 5202794). Follow BLM boundary to intersection with 4000 feet elevation contour (303183, 5206072). Follow 4000 feet elevation contour to intersection with BLM boundary (303606, 5206062). Follow BLM boundary to intersection with 4000 feet elevation contour (306985, 5204735). Follow 4000 feet elevation contour to intersection with BLM boundary (325030, 5210736). Follow BLM boundary to intersection with 4000 feet elevation contour (326639, 5211303). Follow 4000 feet elevation contour to intersection with

BLM boundary (323872, 5207394). Follow BLM boundary to intersection with 4000 feet elevation contour (321664, 5205489). Follow 4000 feet elevation contour to intersection with BLM boundary (305659, 5202137). Follow BLM boundary to intersection with 4000 feet elevation contour (303278, 5201236). Follow 4000 feet elevation contour to intersection with BLM boundary (302649, 5201258). Follow BLM boundary to intersection with 4000 feet elevation contour (300781, 5201073). Follow 4000 feet elevation contour to intersection with BLM boundary (300776, 5200954). Follow BLM boundary to intersection with 4000 feet elevation contour (299764, 5198147). Follow 4000 feet elevation contour to intersection with BLM boundary (292484, 5197608). Follow BLM boundary to intersection with 4000 feet elevation contour (291094, 5197651). Follow 4000 feet elevation contour to intersection with BLM boundary (295674, 5184534). Follow BLM boundary to intersection with 4000 feet elevation contour (295759, 5184449). Follow 4000 feet elevation contour to intersection with BLM boundary (296187, 5184021). Follow BLM boundary to intersection with 4000 feet elevation contour (295513, 5183975). Follow 4000 feet elevation contour to intersection with BLM boundary (294232, 5179074). Follow BLM boundary to intersection with 4000 feet elevation contour (294376, 5178665). Follow 4000 feet elevation contour to intersection with BLM boundary (294474, 5178641). Follow BLM boundary to intersection with 4000 feet elevation contour (295353, 5178635). Follow 4000 feet elevation contour to intersection with BLM boundary (320899, 5178236). Follow BLM boundary to intersection with 4000 feet elevation contour (321121, 5177835). Follow 4000 feet elevation contour to intersection with BLM boundary (324899, 5176961). Follow BLM boundary to intersection with 4000 feet elevation contour (325898, 5176527). Follow 4000 feet elevation contour to intersection with BLM boundary (329303, 5174047). Follow BLM boundary to intersection with 4000 feet elevation contour (329924, 5174403). Follow 4000 feet elevation contour to intersection with Interstate Highway 90 (338356, 5167811). Follow Interstate Highway 90 to intersection with USFS boundary (402512, 5159444). Follow USFS boundary to NPS boundary (334101, 5364611). Follow NPS boundary to intersection with Montana/Canada border (309104, 5430544). Follow Montana/Canada border west to intersection with 4000 feet elevation contour (247562, 5433194). Follow 4000 feet elevation contour to intersection with Montana/Canada border (247373, 5433204). Follow Montana/Canada border west to beginning. This area is found within the following USGS 1:24000 Quads; Trailcreek, Kintla Lake, Kintla Peak, Mount Carter, Porcupine Ridge, Mount Cleveland, Gable Mountain, Chief Mountain, Babb, Lake Sherburne, Many Glacier, Ahern Pass, Mount Geduhn, Vulture Peak, Quartz Ridge, Polebridge, Demers Ridge, Camas Ridge West, Camas Ridge East, Mount Cannon, Logan Pass, Rising Sun, Saint Mary, Kiowa, Cut Bank Pass, Mount Stimson, Mount Jackson, Lake McDonald East, Lake McDonald West, McGee Meadow, West Glacier, Nyack, Stanton Lake, Mount Saint Nicholas, Mount Rockwell, Squaw Mountain, East Glacier Park, Mitten Lake, Half Dome Crag, Hyde Creek, Summit, Blacktail, Essex, Pinnacle, Mount Grant, Nyack SW, Doris Mountain, Columbia Falls South, Hash Mountain, Jewel Basin, Pioneer Ridge, Felix Ridge, Nimrod, Mount Bradley, Red Plum Mountain, Crescent Cliff, Morningstar Mountain, Swift Reservoir, Fish Lake, Volcano Reef, Walling Reef, Gateway Pass, Gooseberry Peak, Gable Peaks, Capitol Mountain, Horseshoe Peak, Circus Peak, Quintonkon, Big Hawk Mountain, Crater Lake, Woods Bay, Yew Creek, Swan Lake, Connor Creek, Tin Creek, Spotted Bear Mountain, Whitcomb Peak, Trilobite Peak, Pentagon Mountain, Porphyry Reef, Mount Wright, Cave Mountain, Ear Mountain, Our Lake, Gates Park, Three Sisters, Bungalow Mountain, Cathedral Peak, Meadow Creek, String Creek, Thunderbolt Mountain, Cilly Creek, Porcupine Creek, Cedar Lake, Salmon Prairie, Swan Peak, Sunburst Lake, Marmot Mountain, Pagoda Mountain, Amphitheatre Mountain, Slategoat Mountain, Glenn Creek, Arsenic Mountain, Castle Reef, Sawtooth Ridge, Patricks Basin, Pretty Prairie, Prairie Reef, Haystack Mountain, Big Salmon Lake East, Big Salmon Lake West, Holland Peak, Condon, Peck Lake, Piper-Crow Pass, Mount Harding, Hemlock Lake, Cygnet Lake, Holland Lake Shaw Creek, Una Mountain, Pilot Lake, Trap Mountain, Benchmark, Wood Lake, Double Falls, Bean Lake, Steamboat Mountain, Jakie Creek, Scapegoat Mountain, Flint Mountain, Danaher Mountain, Hahn Creek Pass, Crimson Peak, Morrell Lake, Lake Inez, Lake Marshall, Gray Wolf Lake, Saint Marys Lake, Upper Jocko Lake, Seeley Lake West, Seeley Lake East, Morrell Mountain, Dunham Point, Spread Mountain, Lake Mountain, Olson Peak, Heart Lake, Caribou Peak, Blowout Mountain, Rogers Pass, Cadotte Creek, Silver King Mountain, Stonewall Mountain, Arrastra Mountain, Coopers Lake, Ovando Mountain, Ovando, Woodworth, Salmon Lake, Belmont Point, Gold Creek Peak, Wapiti Lake, Stuart Peak, Evaro, Northwest Missoula, Northeast Missoula, Blue Point, Sunflower Mountain, Potomac, Greenough, Bata Mountain, Chamberlain Mountain, Browns Lake, Marcum Mountain, Moose Creek, Lincoln, Swede Gulch, Stemple Pass Wilborn, Granite Butte, Nevada Mountain, Finn, Nevada Lake, Helmville, Chimney Lakes, Wild Horse Parks, Elevation Mountain, Union Peak, Mineral Ridge, Clinton, Bonner, Iris Point, Ravenna, Medicine Tree Hill, Bearmouth, Drummond, Limestone Ridge, Bailey Mountain, Windy Rock, Gravely Mountain, Ophir Creek, Esmeralda Hill, Greenhorn Mountain, Austin, Black Mountain, MacDonald Pass, Elliston, Avon, Luke Mountain, Garrison, Griffin Creek, and Dunkleberg Creek. This entire area is proposed critical habitat except for the following lands: Starting at the coordinate (319039, 5226995), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Seeley Lake East and Morrell Mountain. Starting at coordinate (320624, 5225739), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Morrell Mountain. Starting at coordinate (296383, 5186663), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Clinton. Starting at coordinate (296609, 5185893), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Clinton. Starting at coordinate (296530, 5186657), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Clinton. (Within this area, land which is designated as proposed critical habitat starts at coordinate (297038, 5186474) and follows BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Clinton) Starting at coordinate (305789, 5186382), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Mineral Ridge. Starting at coordinate (305659, 5182733), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Mineral Ridge. Starting at coordinate (315723, 5179630), follow BLM boundary to

beginning. This area is found within the following USGS 1:24000 Quad; Medicine Tree Hill. Starting at coordinate (316123, 5178792), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Medicine Tree Hill. Starting at coordinate (314479, 5183663), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Union Peak. Starting at coordinate (317052, 5184417), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Union Peak. Starting at coordinate (320811, 5183108), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (319192, 5191218), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (321667, 5192351), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (320585, 5179899), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Bearmouth. Starting at coordinate (318603, 5182370), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Bearmouth, Elevation Mountain, and Union Peak. Starting at coordinate (326606, 5187107), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Wild Horse Parks. Starting at coordinate (329738, 5184069), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Wild Horse Parks. Starting at coordinate (331398, 5179218), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Drummond. Starting at coordinate (334581, 5178310), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Drummond. Starting at coordinate (332927, 5176344), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Drummond. Starting at coordinate (332167, 5175562), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Drummond. Starting at coordinate (331277, 5182437), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Drummond, Bearmouth, Elevation Mountain, and Wild Horse Parks. Starting at coordinate (318247, 5190866), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Union Peak. Starting at coordinate (337347, 5195158), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Chamberlain Mountain. Starting at coordinate (327133, 5187734), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (327463, 5187624), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (327832, 5187474), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (326314, 5203648), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Browns Lake, Chamberlain Mountain, Bata Mountain, Union Peak, Elevation Mountain, Wild Horse Parks, and Chimney Lakes. {Within this area, land which is designated as proposed critical habitat starts at coordinate (329381, 5188913) and follows BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Elevation Mountain, and Wild Horse Parks. Starting at coordinate (319172, 5190028), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Elevation Mountain and Union Peak. Starting at coordinate (322033, 5190748), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (321061, 5189103), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (320496, 5188957), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (320558, 5188537), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (321011, 5188258), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (322810, 5187242), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (322387, 5186742), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (324560, 5187643), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (325099, 5186866), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (325438, 5186581), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain. Starting at coordinate (323452, 5187427), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Elevation Mountain.} Starting at coordinate (345715, 5188825), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Chimney Lakes. Starting at coordinate (344109, 5204620), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Browns Lake. Starting at coordinate (344914, 5204270), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Browns Lake. Starting at coordinate (344118, 5204036), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Browns Lake. Starting at coordinate (357144, 5190945), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Nevada Lake. Starting at coordinate (355428, 5207566), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Coopers Lake, Marcum Mountain, and Moose Creek. {Within this area, lands which are designated as proposed critical habitat start at coordinate (350866, 5201350) and follows BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Marcum Mountain. Starting at coordinate (355141, 5201112), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Marcum Mountain.} Starting at coordinate (353703, 5200749), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Marcum Mountain. Starting at coordinate (355960, 5194323), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Marcum Mountain.

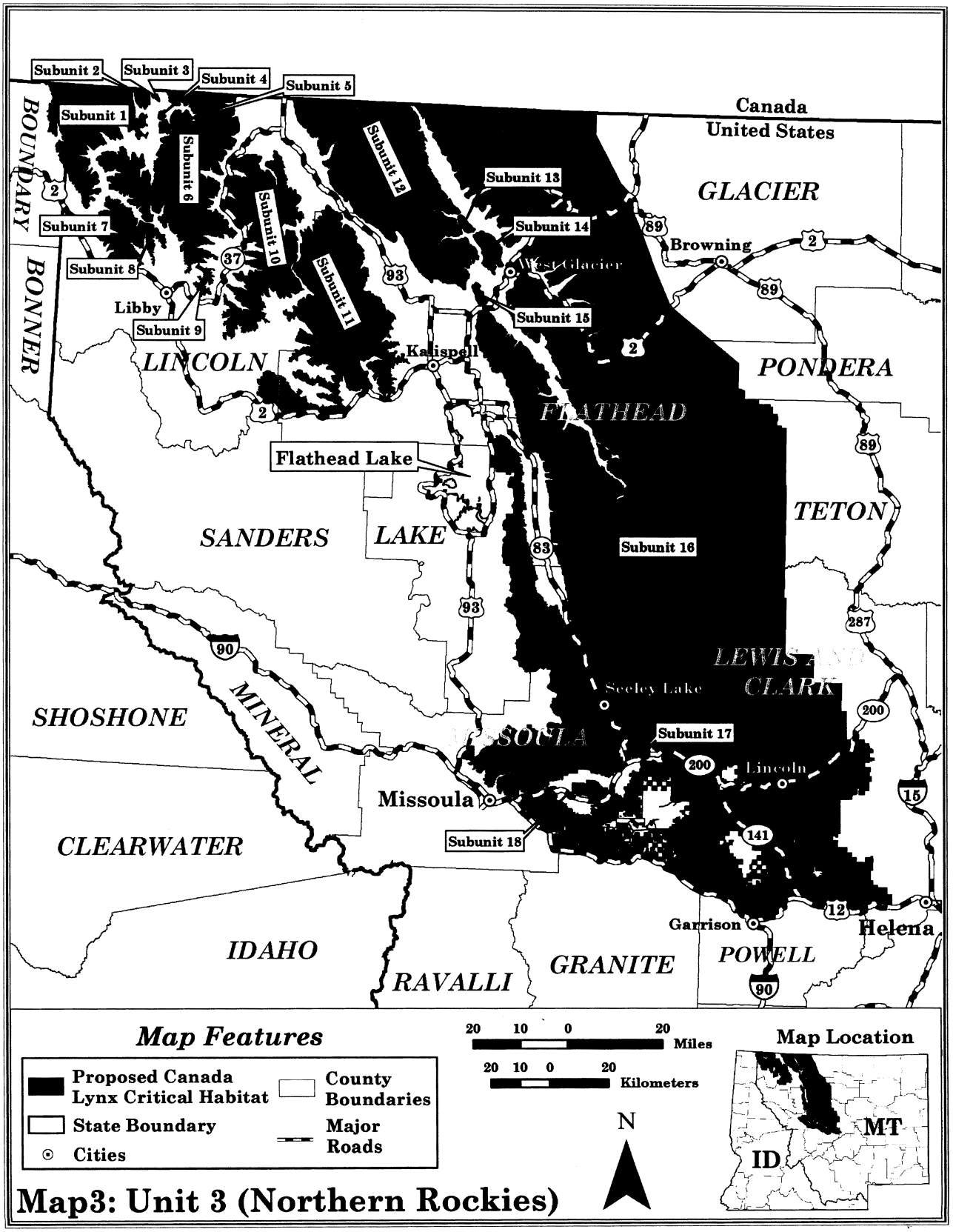
Starting at coordinate (356137, 5193615), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Marcum Mountain and Helmville. Starting at coordinate (357144, 5190945), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Nevada Lake. Starting at coordinate (364695, 5185182), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Nevada Lake. Starting at coordinate (353935, 5184938), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Nevada Lake, Helmville, Bailey Mountain, Windy Rock, and Gravely Mountain. {Within this area, lands which are designated as proposed critical habitat start at coordinate (361661, 5175019) and follows BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (360888, 5173433), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (363227, 5173358), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (361203, 5170807), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock.} Starting at coordinate (366405, 5170924), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Gravely Mountain. Starting at coordinate (360010, 5167874), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (359982, 5166653), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (358776, 5166710), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Windy Rock. Starting at coordinate (371430, 5186097), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Finn. Starting at coordinate (370787, 5185789), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Finn. Starting at coordinate (372795, 5182611), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Finn. Starting at coordinate (375336, 5182119), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Finn and Nevada Mountain. Starting at coordinate (382582, 5172875), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Ophir Creek and Esmeralda Hill. {Within this area, land which is designated as proposed critical habitat starts at coordinate (384870, 5170249) and follows BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Ophir Creek and Esmeralda Hill.} Starting at coordinate (381775, 5171386), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Ophir Creek. Starting at coordinate (383679, 5167260), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Ophir Creek. Starting at coordinate (382059, 5164928), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quads; Ophir Creek and Avon. Starting at coordinate (380763, 5163056), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Avon. Starting at coordinate (396769, 5161893), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; MacDonald Pass. Starting at coordinate (397969, 5162113), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; MacDonald Pass. Starting at coordinate (396918, 5161353), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; MacDonald Pass.

(xviii) *Subunit 17.* Starting at the intersection of the BLM boundary and the 4000 feet elevation contour (326229, 5210916), follow BLM boundary to intersection with 4000 feet elevation contour (326529, 5211101). Follow 4000 feet elevation contour to beginning. This area is found within the following USGS 1:24000 Quad; Woodworth.

(xix) *Subunit 18.* Starting at the intersection of the BLM boundary and the 4000 feet elevation contour (299404, 5198161), follow 4000 feet elevation contour to intersection with BLM boundary (299645, 5198151). Follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Sunflower Mountain.

(xx) **Note:** Map 3 of Unit 3 (Northern Rockies) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(8) Unit 4: North Cascades Unit; Chelan and Okanogan counties, Washington.

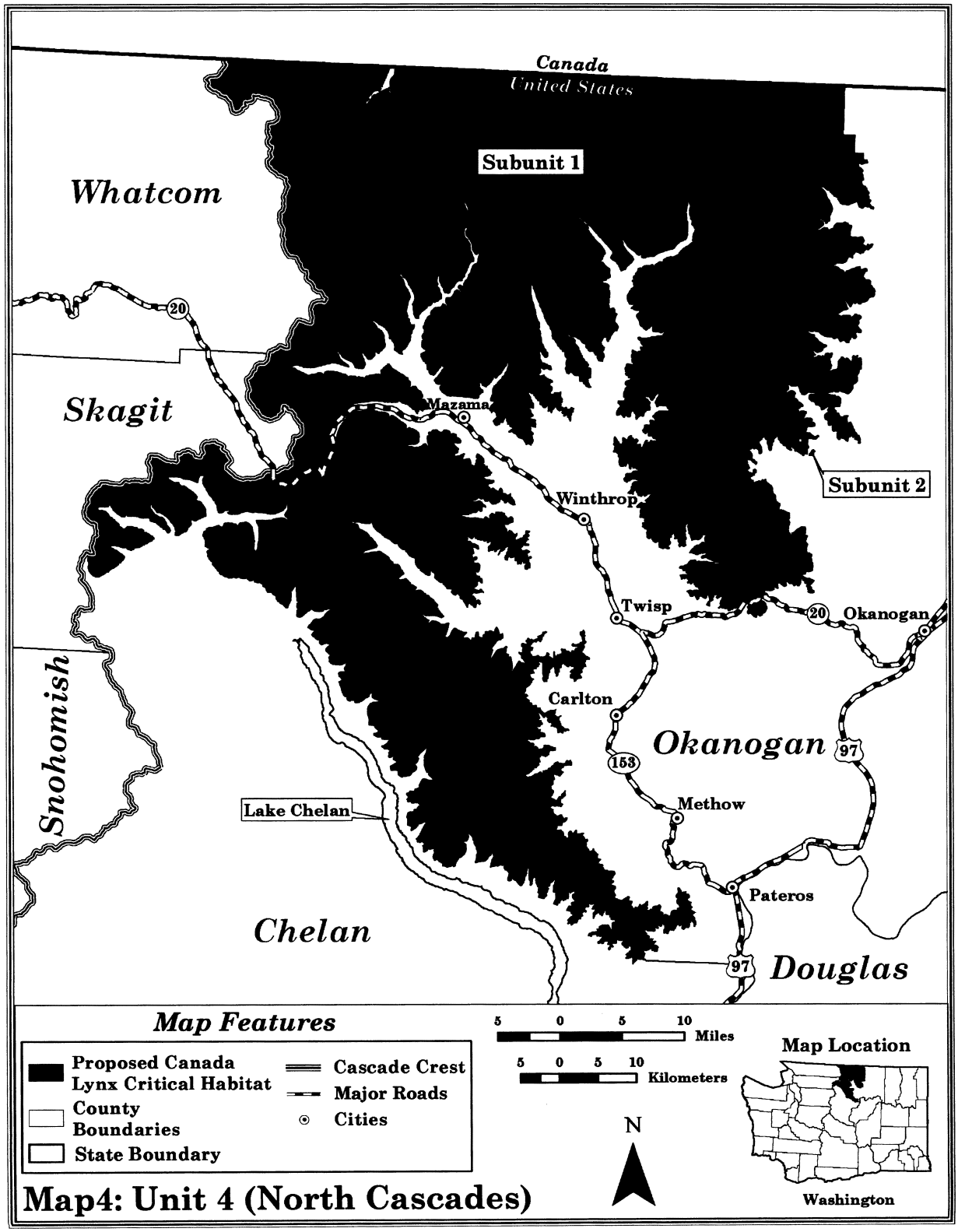
(i) Coordinate Projection: UTM, NAD83, Zone 11, Meters. Coordinate Definition: (easting, northing). Unit 4 is divided into two subunits to facilitate description.

(ii) *Subunit 1.* Starting at the Washington/Canada border (Whatcom/Okanogan Counties boundary—''Cascade Crest'') (218319, 5434639), follow the ''Cascade Crest'' south to coordinate (200268, 5369981). Go south approximately 250 meters (200241, 5369733) to watercourse (headwaters—Flat Creek). Follow watercourse (Flat Creek) to intersection with 4000 feet elevation contour (201629, 5366872) (Cascade Pass Quad—USGS 1:24000). Follow 4000 feet elevation contour to BLM boundary (270630, 5316493). Follow BLM boundary east to (270674, 5316490). Follow BLM boundary south to intersection with 4000 feet elevation contour (270651, 5315908). Follow 4000 feet elevation contour to BLM boundary (293481, 5382799). Follow BLM boundary north and then east to intersection with 4000 feet elevation contour (294577, 5384829). Follow 4000 feet elevation contour to intersection with BLM boundary (301353, 5421464). Follow BLM boundary to intersection with Washington/Canada border (298454, 5431123). Follow Washington/Canada border west to intersection with 4000 feet elevation contour (240301, 5433596). Follow 4000 feet elevation contour to intersection with Washington/Canada border (239526, 5433632). Follow Washington/Canada border to beginning. This area is found within the following USGS 1:24000 Quads; Skagit Peak, Castle Peak, Frosty Creek, Ashnola Mountain, Ashnola Pass, Remmel Mountain, Bauerman Ridge, Horseshoe Basin, Hurley Peak, Nighthawk, Tatoosh Buttes, Shull Mountain, Pasayten Peak, Mount Lago, Mount Barney, Coleman Peak, Corral Butte, Duncan Ridge, Loomis, Lost Peak, Billy Goat Mountain, Azurite Peak, Slate Peak, Robinson Mountain, McLeod Mountain, Sweetgrass Butte, Doe Mountain, Spur Peak, Tiffany Mountain, Coxit Mountain, Blue Goat Mountain, Forbidden Peak, Mount Logan, Mount Arriva, Washington Pass, Silver Star Mountain, Mazama, Lewis Butte, Pearrygin Peak, Old Baldy, Conconully West, Rendevous Mountain, Conconully East McGregor Mountain, McAlester Mountain, Gilbert, Midnight Mountain, Thompson Ridge, Loup Loup Summit, Buck Mountain, Cascade Pass, Goode Mountain, Blue Buck Mountain, Stehekin, Sun Mountain, Oval Peak, Hoodoo Peak, Twisp West, Thrapp Mountain, Chiliwist Valley, Lucerne, Prince Creek, Martin Peak, Hungry Mountain, Big Goat Mountain, South Navarre Peak, Oss Peak, Cooper Mountain, Pateros, Manson, Cooper Ridge, and Azwell. This entire area is designated proposed critical habitat except for the following land: Starting at coordinate (292364, 5384506), follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Conconully West.

(iii) *Subunit 2.* Starting at the intersection of the 4000 feet elevation contour and BLM boundary (293662, 5382670), follow 4000 feet elevation contour to intersection with BLM boundary (294496, 5383222). Follow BLM boundary to beginning. This area is found within the following USGS 1:24000 Quad; Conconully West.

(iv) **Note:** Map 4 of Unit 4 (North Cascades) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

* * * * *

Dated: November 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–22193 Filed 11–8–05; 8:45 am]

BILLING CODE 4310–55–C