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United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



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DEC 11 2017

Memorandum

To: Director

From: Regional Director, Mountain-Prairie Region

Norman E. Walsh

Subject: 4(f)(1) Determination Regarding Recovery Planning for the Canada Lynx
(*Lynx canadensis*)

The purpose of this memorandum is to make a determination under 16 U.S.C. § 1533(f)(1) that the development of a recovery plan for the contiguous United States distinct population segment (DPS) of the Canada lynx would not promote the conservation of the species. A recent multi-region 5-year review determined that the lynx DPS should be proposed for delisting pursuant to the Endangered Species Act (Act). The Service is required, by court order, to complete a recovery plan for the lynx DPS by January 15, 2018 unless the agency finds that such a plan will not promote conservation for the species.

Background

The Service listed the lynx DPS as a threatened species under the Act in 2000 (65 FR 16052-16086). We originally designated critical habitat for the lynx on November 9, 2006 (71 FR 66008), revised critical habitat on February 25, 2009 (74 FR 8616), then revised critical habitat again on September 12, 2014 (79 FR 54782). On May 8, 2014, the United States District Court for the District of Montana ordered the Service to complete recovery planning for the lynx DPS (U.S. District Court Montana 2014a, p. 8). On June 25, 2014, that court ordered the Service to complete a recovery plan by January 15, 2018 "...unless the Service finds that such a plan will not promote the conservation of the [lynx]" (U.S. District Court Montana 2014b, p. 2).

The Service listed the lynx DPS as threatened in 2000 because of the potential for impacts to lynx habitat conditions and prey populations due to regulatory mechanisms on Federal lands that did not provide sufficient certainty that lynx habitats, lynx populations, and prey populations would be adequately conserved in light of potential threats (65 FR 16052-16086). Federal land management plans, at that time, allowed for forest management practices that could potentially reduce lynx habitat on a population level scale, thereby creating a future risk to the species' existence in the DPS.

In coordination with Regions 1, 3, 5, and 6, the Service recently completed a 5-year status review that recommends delisting the lynx DPS (Canada Lynx 5-Year Review 2017, entire). Our status review was informed by a comprehensive Species Status Assessment (SSA) Report that summarizes the best available scientific information on the current status and likely future viability of the DPS (SSA Report, entire). The peer and partner reviewed SSA Report provides the scientific basis for the 5-year review.

As we stated in the 5-year review, "In light of potential threats considered at the time of listing, lynx conservation measures and habitat management guidance adopted by the U. S. Forest Service (USFS) and the Bureau of Land Management (BLM), via formally amended or revised management plans or conservation agreements with the Service, have substantially addressed the conservation of lynx habitats and populations and snowshoe hare habitat (SSA Report, p. 4)." (Canada Lynx 5-Year Review 2017, p. 5). All five geographic units that currently support resident lynx populations are expected to continue to do so through mid-century (2050) (SSA Report, p. 236). Our analyses, as informed by expert input, suggest that resiliency will likely be sufficient to sustain species persistence of resident lynx through mid-century in all or most of the five geographic units that currently support them (SSA Report, p. 236). At mid-century, we expect lynx to retain a wide geographical distribution of populations, maintaining redundancy within the DPS (SSA Report, p. 236). Should lynx populations in each geographic unit become smaller and more patchily distributed, reduced genetic health and/or adaptive capacity would be expected; however, we have no information to suggest reduced representation would be a DPS-level concern at mid-century (SSA Report, chapter 6). Therefore, we concluded in the 5-year review that the lynx DPS may not meet the definition of a threatened species (Canada Lynx 5-Year Review 2017, p. 6).

Recommendation

Section 4(f)(1) of the Act requires the Service to develop and implement recovery plans for species listed as endangered or threatened, "unless [the Service] finds such a plan will not promote the conservation of the species." According to the 2004 draft revised Recovery Planning Guidance jointly developed by the Service and the National Marine Fisheries Service, acceptable justifications for an exemption from having a recovery plan include: (1) delisting is anticipated due to extinction or listing error; (2) the species' historic and current ranges occur entirely under the jurisdiction of other countries; and, (3) other circumstances not easily foreseen, but in which the species would not benefit from a recovery plan.

For the lynx DPS, we are seeking concurrence that preparation of a recovery plan will not contribute to the conservation of the lynx DPS as defined by the Act, and that exemption from recovery planning efforts for the lynx DPS is warranted under reason (3) above. The "other circumstance" in this case is our recommendation to delist the lynx DPS due to recovery as described in the lynx DPS 5-year review (Canada Lynx 5-Year Review 2017, entire). The lynx DPS may no longer meet the definition of a threatened species. A proposed delisting rule should be prepared by the Service.

If, during the rulemaking process on the recommendation to delist the DPS, the Service determines that lynx should remain listed, the Service would reconsider the need to complete a recovery plan. Presently, the Service determines under 16 U.S.C. § 1533(f)(1) that a recovery plan would not promote conservation of the species and this determination will fulfill the Service's obligations under the 2014 Court Order.

APPROVED BY

James W. KurthDATE 12/20/17

Deputy Director
for the U.S. Fish and Wildlife Service
Exercising the Authority of the Director
for the U.S. Fish and Wildlife Service