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; reopening of public comment period and clarification of proposed critical habitat designation.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposal to designate critical habitat for the contiguous United States distinct population segment of the Canada lynx (*Lynx canadensis*) under the Endangered Species Act of 1973, as amended, which was published on November 9, 2005 (70 FR 68294). This will allow all interested parties the opportunity to comment on the proposed critical habitat designation. The public comment period is being reopened with this notice until April 30, 2006. In addition, we provide information and maps clarifying the areas proposed for critical habitat designation in the November 9, 2005 (70 FR 68294) publication.

DATES: Comments on the proposed designation of critical habitat for the Canada lynx are due by April 30, 2006. Comments must be submitted directly to the Service (see **ADDRESSES**) on or before the deadline. Any comments received after the closing date may not be considered in the final determination on the proposal.

ADDRESSES: If you wish to comment, you may submit your comments and materials 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, 585 Shepard Way, Helena, Montana 59601.

2. 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.

The critical habitat proposal and supportive maps are available for viewing by appointment during regular business hours at the above address. All comments and materials received, as well as supporting documentation used in preparation of the proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address. Information regarding this proposal is available on the Internet: *http://mountain-prairie.fws.gov/species/mammals/lynx/.*

FOR FURTHER INFORMATION CONTACT: Lori Nordstrom, Montana Ecological Services Office (see **ADDRESSES**), telephone 406–449–5225 extension 208.

SUPPLEMENTARY INFORMATION:

Background

We have received a number of requests to reopen the comment period for the proposal 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), which was published in the **Federal Register** on November 9, 2005 (70 FR 68294). The original comment period closed on February 7, 2006.

The areas proposed for designation as critical habitat occur within four units in the States of Idaho (ID), Maine, Minnesota, Montana (MT), and Washington (WA). Because of difficulties obtaining accurate delineations of National Forest boundaries in the Northern Rocky Mountains (ID and MT) and Northern Cascades (WA) units in a timely manner, the area estimates for these two units in the proposed rule included National Forest lands although National Forest lands were not proposed as critical habitat for these two units. Tables 1 and 2 are provided below to correct the information in the November 9, 2005, proposed rule; these tables reflect our best estimate of the area and land ownership within these two proposed units. In total, approximately 18,031 square miles (mi^2) (46,699 square kilometers (km^2)) fall within the boundaries of the proposed critical habitat designation.

TABLE 1.—AREA OF THE FOUR 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)	3,549	9,192
4. Northern Cascades (WA)	303	785
Total	18,031	46,699

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

	Federal	State	Private	Tribal	Other
Idaho	0.02/0.05	1/2.6	0/0	0/0	0/0
Maine	13/337	758/1,963	9,741/25,229	86/223	35/91
Minnesota	440/1140	1,355/3,509	1,661/4,302	74/192	15/39
Montana	1,428/3,699	365/945	1,691/4,380	0/0	113/293
Washington	135/350	164/425	2/5	0/0	2/5
Total	2,016/5,221	2,643/6,845	13,095/33,916	160/414	165/427

To further clarify the proposed critical habitat designation, in this notice we are republishing maps of each proposed unit. Map 1 depicts Unit 1 (Maine); Map 2 depicts Unit 2 (Minnesota); Map 3 depicts Unit 3 (Northern Rockies); and Map 4 depicts Unit 4 (North Cascades). For the proposed critical habitat unit in Minnesota, our intention is that the proposed critical habitat boundary reflect Lynx Analysis Unit boundaries. Our narrative description of the

proposed critical habitat boundary may not precisely match the boundaries of the Lynx Analysis Units, which, in some areas, were based on relatively obscure biogeographic boundaries. Furthermore, there have been minor changes in the boundary descriptions for the Minnesota unit that we are not republishing here but are available on our Web site: *http://mountain-prairie.fws.gov/species/mammals/lynx/*.

We hereby solicit data and comments from the public on all aspects of the proposed critical habitat designation, 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, 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.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

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 whether or not occupied habitat proposed for designation 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 the 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 conservation measures for the lynx (*i.e.*, the 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 the 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 the 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 address, which we will honor to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, 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, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the Montana Ecological Services Office (see **ADDRESSES** section).

Author

The primary author of this notice is Lori Nordstrom, Montana Ecological Services Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 9, 2006.

Matt Hogan,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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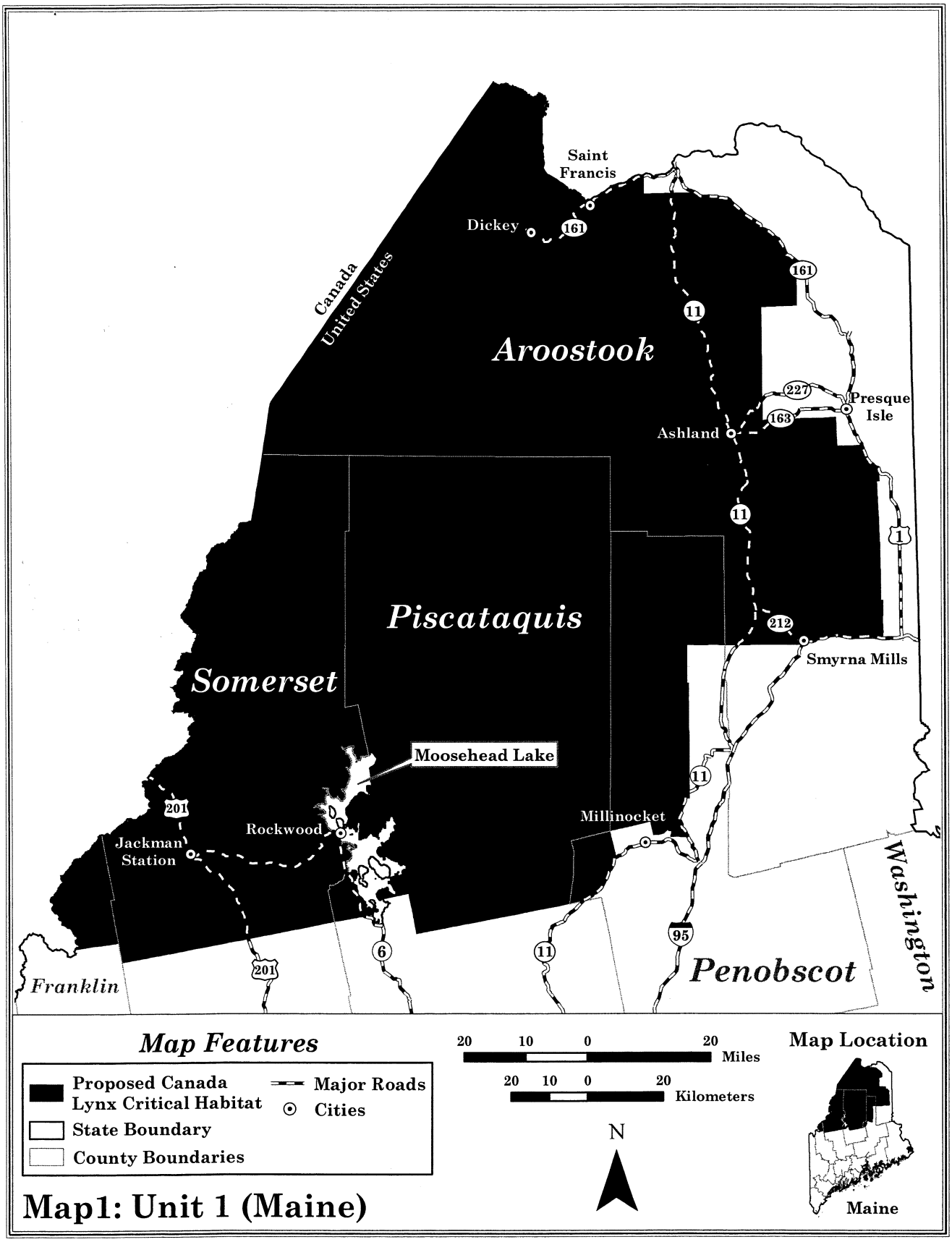
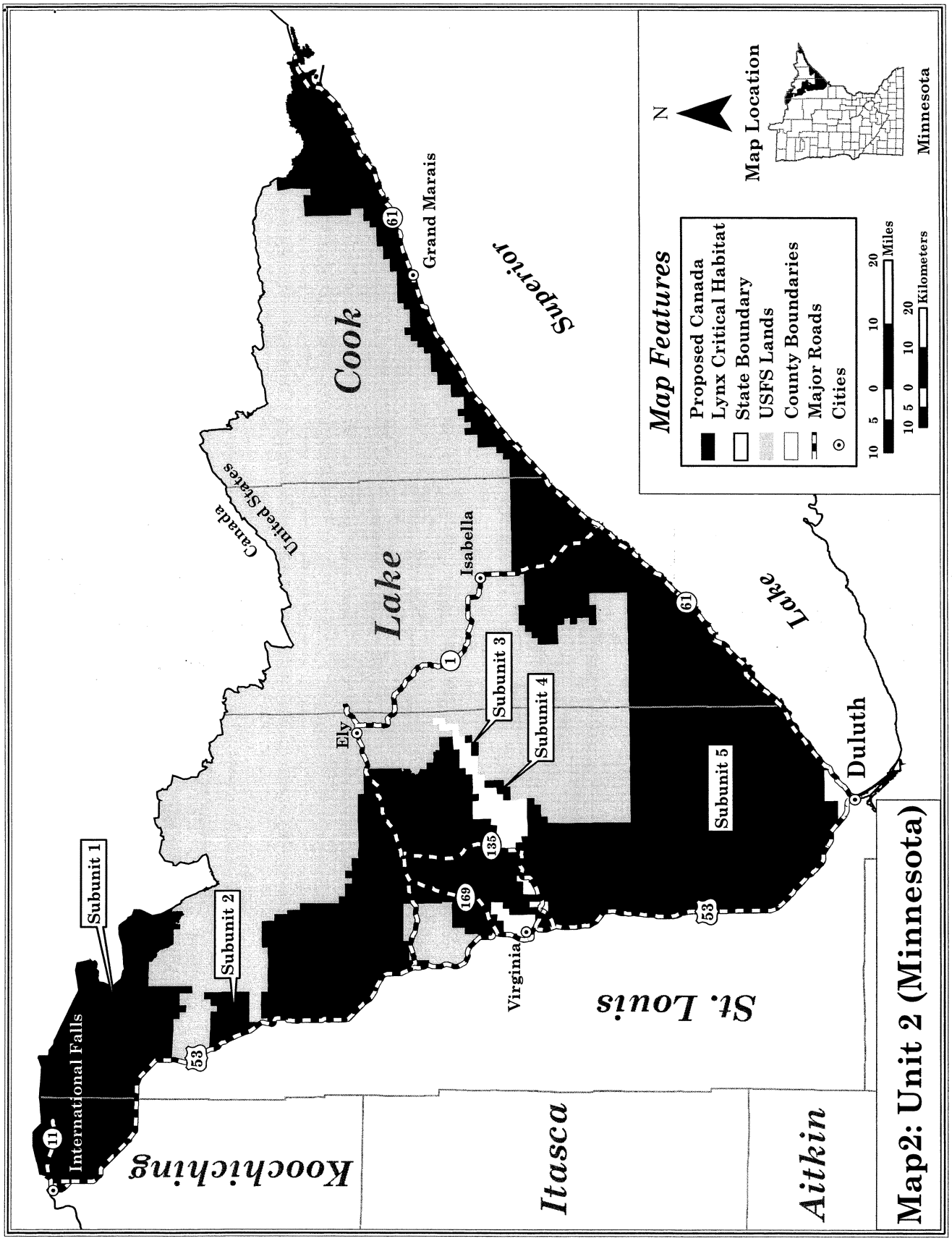
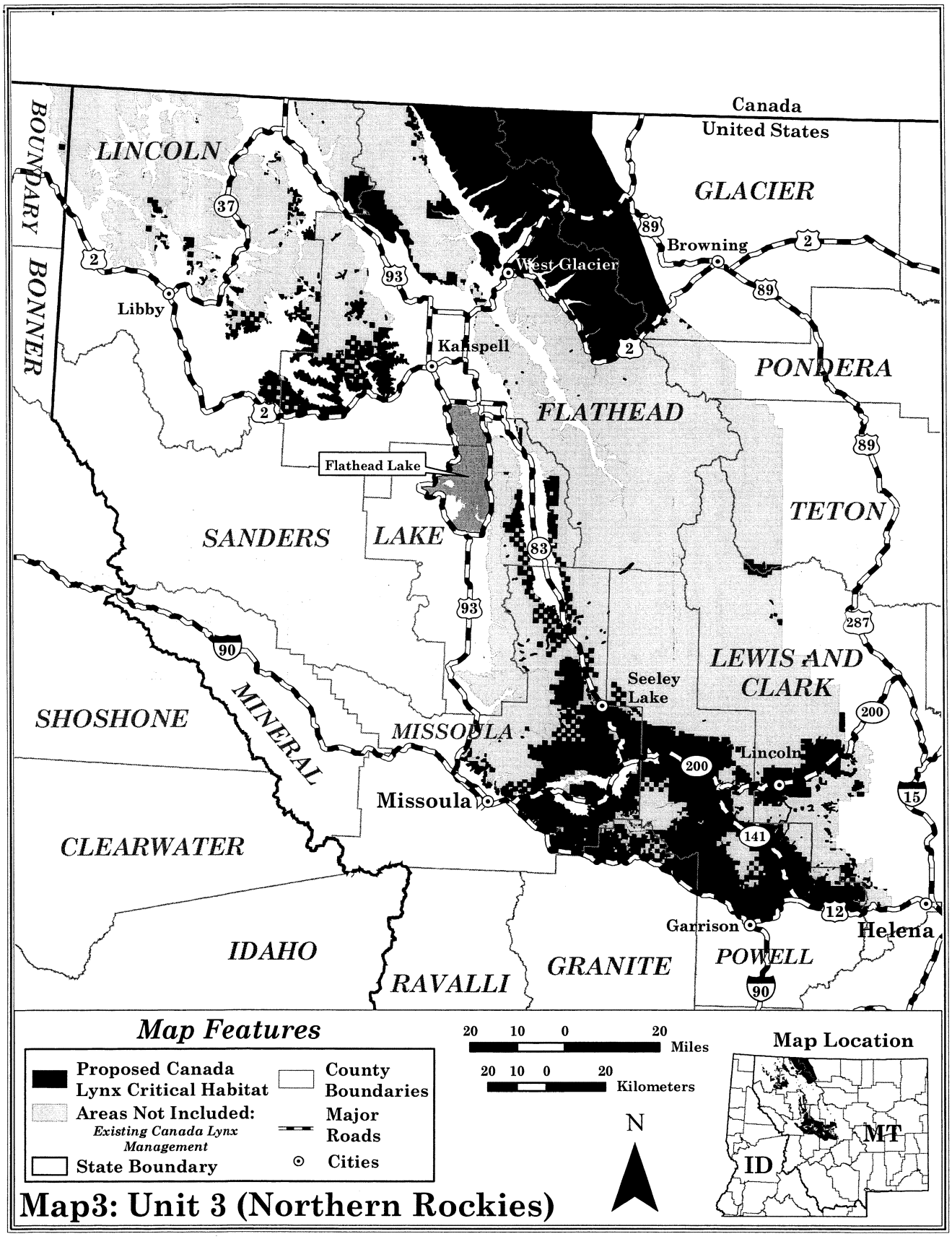


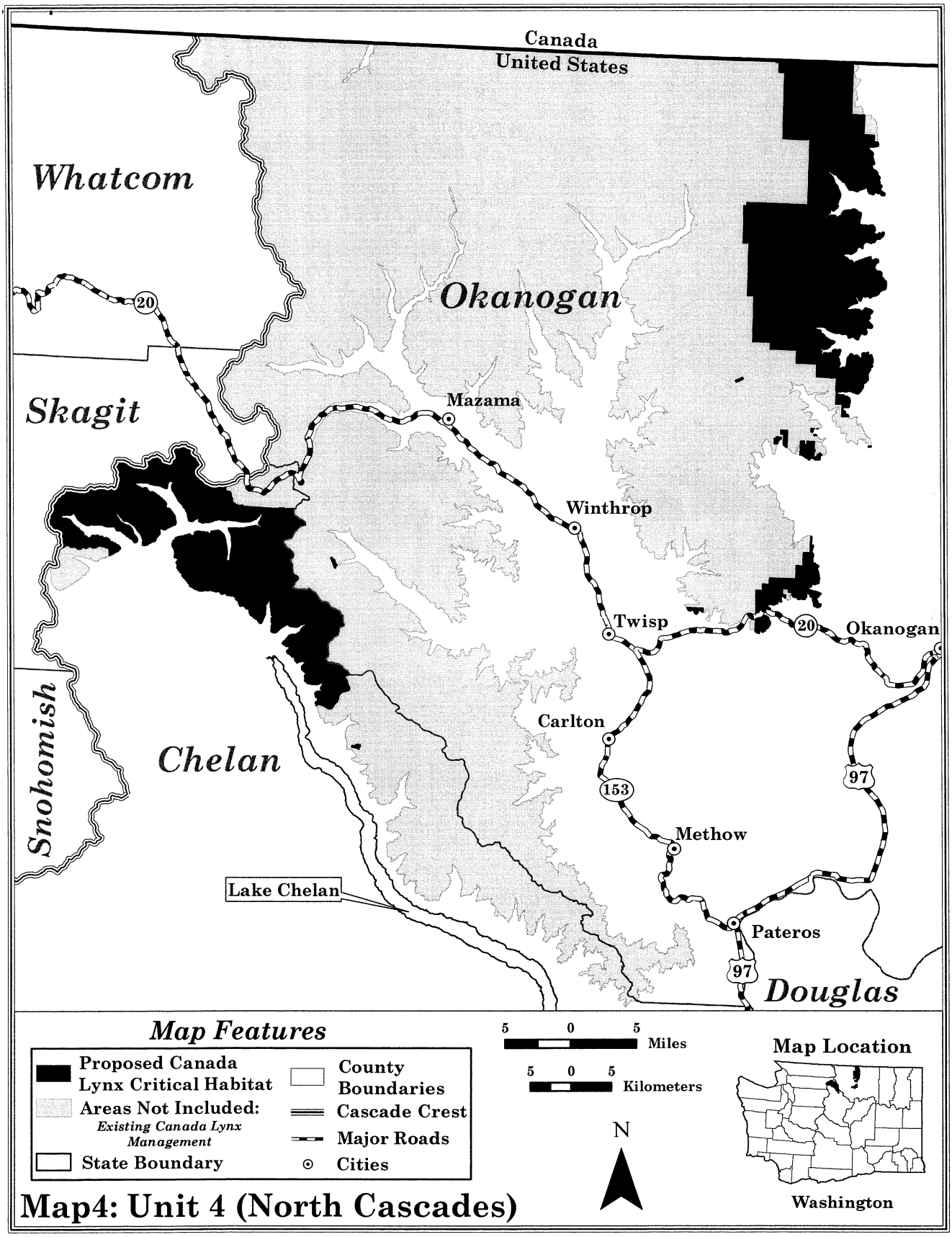
Map1: Unit 1 (Maine)



Map2: Unit 2 (Minnesota)



Map3: Unit 3 (Northern Rockies)



Map4: Unit 4 (North Cascades)

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