

## **Proposal to List the Dunes Sagebrush Lizard Questions and Answers**

### **Q: What action is the U.S. Fish and Wildlife Service taking?**

**A:** The U.S. Fish and Wildlife Service is proposing to protect the dunes sagebrush lizard (*Sceloporus arenicolus*), as endangered under the Endangered Species Act (ESA). The Service has determined that critical habitat for the dunes sagebrush lizard is prudent but not determinable at this time.

### **Q: Why is the Service taking this action at this time?**

**A:** The Service has found that the dunes sagebrush lizard is presently in danger of extinction throughout its entire range, based on the immediacy, severity, and scope of the ongoing significant threats of habitat loss and fragmentation.

### **Q: Where is the dunes sagebrush lizard found?**

**A:** The dunes sagebrush lizard, found in southeastern New Mexico and adjacent west Texas, is a small, light brown lizard with a maximum snout-to-vent length of 2.8 inches for females and 2.6 inches for males. This lizard is a habitat specialist native to a small area of shinnery oak dunes extending from the San Juan Mesa in northeastern Chaves County, Roosevelt County, through eastern Eddy and southern Lea Counties in New Mexico. In Texas, the dunes sagebrush lizard is found in a narrow band of shinnery oak dunes in Gaines, Ward, Winkler, and Andrews Counties.

### **Q: What are the threats to their habitat?**

**A:** The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the dunes sagebrush lizard. The dunes sagebrush lizard faces immediate and significant threats due to oil and gas activities, and herbicide treatments. Habitat loss and fragmentation due to oil and gas development is a measureable factor impacting the species due to the removal of shinnery oak and creation of roads and pads, pipelines, and power lines that create habitat patches and increase the proportion of habitat edge to habitat interior. In addition, impacts that are not easily quantified such as climate change, competition, and pollution may exacerbate adverse effects caused by habitat loss. Cumulative threats to the dunes sagebrush lizard are not being adequately addressed through existing regulatory mechanisms. Oil and gas pollutants are a current and ongoing threat to the species throughout its range.

### **Q: How will listing the dunes sagebrush lizard protect it?**

**A:** Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for federal protection, and prohibitions against certain practices. Recognition results in public awareness and conservation by federal, state, tribal, and local agencies; private organizations; and individuals. The ESA encourages cooperation with the States and requires that recovery actions be carried out for all listed species.

Subsection 4(f) of the ESA requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions to achieve recovery of the species, measurable criteria to determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (comprised of species experts, Federal and State agencies, nongovernment organizations, and stakeholders) are often established to develop recovery plans.

Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

**Q: What is being done now to protect the dunes sagebrush lizard?**

**A:** In New Mexico, the Service and the Bureau of Land Management have collaborated to develop a Candidate Conservation Agreement and Candidate Conservation Agreement with Assurances (CCA/CCAA) for the dunes sagebrush lizard. The CCA/CCAA includes the entire range of the dunes sagebrush lizard in New Mexico. These agreements have only been in effect since December 2008; however, the Service is optimistic that with future enrollments these agreements can make a significant contribution to the dunes sagebrush lizard's conservation and provide assurances to landowners who have stepped up to assist in the conservation of the species. Although the dunes sagebrush lizard is proposed for listing, the Service encourages landowners, oil and gas operators, and ranching operators to participate in these conservation programs. The actions taken and funds generated from these agreements are being used to help restore habitat and conserve the dunes sagebrush lizard.

**Q: What are CCAs and CCAAs?**

**A:** Candidate Conservation Agreements (CCAs) are voluntary conservation agreements between the Service and one or more public or private parties. The Service works with its partners to identify threats to candidate species, plan the measures needed to address the threats and conserve these species, identify willing landowners, develop agreements, and design and implement conservation measures and monitor their effectiveness.

Candidate Conservation Agreement with Assurances (CCAAs) expand on the success of traditional CCAs by providing non-Federal landowners with additional incentives for engaging in voluntary proactive conservation through assurances that limit future conservation obligations. The CCAA

program was developed to address landowner concerns about conserving a species that may become listed and then being faced with potential increased regulatory implications of having a listed species on their land. The CCAA program specifically targets non-Federal landowners and provides them with the assurance that if they implement various conservation activities, they will not be subject to additional restrictions if the species becomes listed under the ESA. These assurances are only available to non-federal entities for actions on non-federal lands.

**Q: Will the States have to foot the entire bill for recovery?**

**A:** No. If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, under Section 6 of the ESA, the States of New Mexico and Texas would be eligible for Federal funds to implement management actions that promote the protection and recovery of the dunes sagebrush lizard. Information on our grant programs that are available to aid species recovery can be found at: <http://www.fws.gov/grants>.

**Q: Will the public have an opportunity to comment on this proposal?**

**A:** Yes. A 60-day public comment period will begin with the publication of this proposal in the *Federal Register*. The agency will consider comments received or postmarked on or before February 14, 2011. Also, the Service must receive requests within 45 days for public hearings, in writing, at the address shown below by January 28, 2011.

**Q: What information is the Service asking for?**

**A:** The Service is requesting comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

- 1) The historical and current status and distribution of the dunes sagebrush lizard, its biology and ecology, and ongoing conservation measures for the species and its habitat.
- 2) Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:
  - a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;
  - b) Overutilization for commercial, recreational, scientific, or educational purposes;
  - c) Disease or predation;
  - d) The inadequacy of existing regulatory mechanisms; or
  - e) Other natural or manmade factors affecting its continued existence and threats to the species or its habitat.
- 3) Which areas would be appropriate as critical habitat for the species and why they should be proposed for designation as critical habitat.
- 4) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act of 1973, including whether the benefits of designation would outweigh

threats to the species that designation could cause, such that the designation of critical habitat is or is not prudent.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

**Q: How can I submit comments?**

**A:** You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for docket FWS-R2-ES-2010-0041 and then follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R2-ES-2010-0041; *Division of Policy and Directives Management*; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

If you submit a comment via <http://www.regulations.gov>, your entire submission, including any personal identifying information, will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, the Service cannot guarantee that we will be able to do so. The Service will post all hardcopy comments on <http://www.regulations.gov>. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials that the Service receives, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the New Mexico Ecological Services Field Office.

For further information you may contact Wally “J” Murphy, Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM, 87113; by telephone 505-761-4718 or by facsimile 505-346-2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**Q: Where can I find more information on the dunes sagebrush lizard?**

**A:** A copy of the proposal and other information about the dunes sagebrush lizard is available online at <http://www.fws.gov/southwest/>.