



Frequently Asked Questions About the Withdrawal of the Proposed Rule to List the Flat-Tailed Horned Lizard as Threatened

Q. What is the basis for the U.S. Fish and Wildlife Service's recent decision to withdraw the proposed listing of the flat-tailed horned lizard as threatened under the Endangered Species Act?

The U.S. Fish and Wildlife Service (Service) withdrew the 1993 proposed rule to list the flat-tailed horned lizard under the Endangered Species Act (Act), because we determined that based on the historic range of the species, the amount of habitat that has been lost is not significant.

This most recent withdrawal follows the Service's 2003 decision to withdraw the proposed listing of the species based on our determination that the degree of threats to the species are not as significant as earlier believed, and current available data do not indicate that threats to the species and its habitat are likely to endanger the species in the foreseeable future throughout all or a significant portion of its range.

Q. Why did the Service reinstate the 1993 proposed rule when the proposal was previously withdrawn in 1997 and again in 2003?

On November 29, 1993, the Service published a proposed rule to list the flat-tailed horned lizard as threatened, under the Act. The Service withdrew its proposal on July 15, 1997, based on three primary factors: 1) population trend data did not conclusively demonstrate significant population declines; 2) some of the threats to the species' habitat had become less serious since the proposed rule was published; and 3) the Service believed the Conservation Agreement and Flat-Tailed Horned Lizard Rangewide Management Strategy would further reduce threats to the species.

Following the Service's decision to withdraw the proposed rule, Defenders of Wildlife filed a lawsuit in the U.S. District Court for the Southern District of California. The District Court upheld the Service's decision to withdraw the 1993 proposed rule, but the ruling was appealed by the plaintiffs.

On July 31, 2001, the Ninth Circuit Court of Appeals vacated the District Court's ruling and sent the case back to the lower court. The District Court subsequently issued an order on October 24, 2001, requiring the Service to announce the reinstatement of the 1993 proposed rule and to make a final listing determination within 12 months of announcing the reinstatement.

After receiving and reviewing data and information about the reinstatement of the 1993 proposed rule, the Service determined that flat-tailed horned lizard does not warrant listing under the Act. The basis for our second decision to withdraw the 1993 proposed rule is as follows: (1) the degree of threats to the species are not as significant as earlier believed; and (2) current available

data do not indicate that threats to the species or its habitat are likely to endanger the species in the foreseeable future throughout all or a significant portion of its range.

The Defenders of Wildlife again challenged the Service's decision to withdraw the proposed listing of the species and in November 2005, the U.S. District Court for the Southern District of California ordered the Service to reinstate 1993 proposed rule and analyze the historic range of the flat-tailed horned lizard to determine if the amount of habitat lost constitutes a significant portion of the species' range.

The Service has determined that the flat-tailed horned lizard's historic range in the United States and Mexico covered approximately 4.8 million acres of permanent habitat. At the present time, approximately 3.9 million acres of habitat remain in the species' range in the United States and Mexico.

Q. If the flat-tailed horned lizard is not listed under the Act how can it be protected?

Although the Service determined the flat-tailed horned lizard does not warrant listing under the Act, there are efforts underway to help conserve the species.

The State of California considers the flat-tailed horned lizard a species of special concern and the State of Arizona has included it on their draft List of Wildlife of Special Concern. Both states prohibit the collection of flat-tailed horned lizards, except by permit.

There is also an ongoing, cooperative effort by seven Federal and State agencies to implement a Flat-Tailed Horned Lizard Rangewide Management Strategy to conserve and manage habitat to support viable populations of the species throughout its range in the United States.

The Service is also working with the Coachella Valley Association of Governments and the Agua Caliente Band of Cahuilla Indians to develop a Multiple Species Habitat Conservation Plan conserve habitat for flat-tailed horned lizards in the Coachella Valley.

Q. What agencies participate in the Rangewide Management Strategy and what does it entail?

In June 1997, seven Federal and State agencies signed a Conservation Agreement (CA) to implement a Flat-Tailed Horned Lizard Rangewide Management Strategy (Management Strategy). Signatories to the CA include the Service, Bureau of Land Management, Bureau of Reclamation, U.S. Marine Corps, U.S. Navy, Arizona Game and Fish Department, and the California Department of Parks and Recreation.

The Management Strategy is designed to provide a frame work for conserving sufficient habitat to maintain several viable populations of the flat-tailed horned lizard throughout the species' range in the United States.

As part of the Management Strategy there are nine high-priority actions, with associated sub-actions, considered necessary to undertake in the near term to conserve the species and prevent irreversible population declines. These are the nine top priority actions: (1) delineation and designation of five MAs and one flat-tailed horned lizard research area; (2) define and implement management actions necessary to minimize loss or degradation of habitat; (3) rehabilitate damaged or degraded habitat in the MAs; (4) attempt to acquire from willing sellers, all private

lands that occur within the MAs; (5) maintain or establish effective habitat corridors between naturally adjacent populations; (6) coordinate activities and funding among the participating agencies and agencies from the State of Mexico; (7) promote the purposes of the strategy through law enforcement and public education; (8) encourage and support research that will promote conservation of the species or desert ecosystems and will effectively define and implement necessary management actions inside and outside the MAs; and (9) continue inventory and monitoring efforts.

In 2003, a Revised Rangelwide Management Strategy was prepared by the Interagency Coordinating Committee and can be viewed on the Internet at http://www.fws.gov/carlsbad/FTHL_Docs.htm