

Congress of the United States
Washington, DC 20515

April 30, 2012

Secretary Ken Salazar
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Dear Secretary Salazar,

We are writing to oppose any decision by the U. S. Fish and Wildlife Service (USFWS) to list the Dunes Sagebrush Lizard (Lizard) under the provisions of the Endangered Species Act of 1973. While recent reports from meetings in Washington, D.C. indicate a possible desire by the Department of Interior and USFWS to list the species as “threatened” rather than “endangered”, we strongly believe the mandatory use of “best available science” precludes any listing whatsoever.

Our opposition to listing stems from the fact that USFWS accepted a partisan group’s scientific data, which contained major flaws that were presented to USFWS. We have been assured recent research in Lizard habitat in New Mexico and Texas demonstrates that much of the science and data USFWS relied upon in its Federal Register publication of the proposed DSL listing was outdated, flawed and ignored other “best available science” in its possession. For example:

1. Peer reviewed work, apparently not considered in the listing proposal, indicates that the walking survey/visual identification techniques upon which the proposal is based do not yield reliable population density data and that removal plot sampling found 6.5 times as many DSL specimens. Refer to Nicole L. Smolensky and Lee A. Fitzgerald, “Distance Sampling Underestimates Population Densities of Dune-Dwelling Lizards,” JOURNAL OF HERPETOLOGY 44:372-381 (2010).
2. The proposed listing overestimates lost or modified DSL habitat, asserting that DSL habitat in New Mexico declined by 40% from 1982 to 2010. Recent evaluation of habitat loss indicates a much smaller decline of 5.1% from 1986 to 2011. Refer to Hayden-Wing Associates, LLC, “Identification of Potential Shinnery Oak Habitat for the Dunes Sagebrush Lizard across New Mexico and Texas using Spatial Analysis Software” (2012).
3. The proposed listing contains numerous errors in citations to scientific papers, including statements that materially misrepresent the actual language of the scientific papers upon which the proposal is based. Refer to the attached list of errors.

Without quality biological evidence of a threat to the Lizard, we see no reason why citizens, landowners, industries, and city, county and state governments should be faced with the

detrimental impact the listing will have on lives and incomes, not to mention our nation's energy reserves. A "threatened" listing will have essentially the same detrimental impacts and impose the same unwarranted requirements on citizens, businesses and governmental entities in the region as would an "endangered" listing.

Businesses already operate in an uncertain regulatory climate and take risks every day in order to grow and provide employment. We would hope that you will also consider the damage that your decision to list the Lizard will have on our nation's economy as a whole before forcing businesses to take unnecessary actions for political reasons. The people who work in the field are the 99%. A listing of either "threatened" or "endangered" will punish them with fewer jobs, higher gas prices, and less money for public schools. The Obama Administration must not choose lizards over livelihoods.

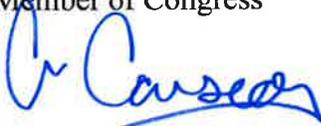
We believe the data suggests there now exists a stable, if not thriving, Lizard population across the Permian basin, an area which accounts for 20% of domestic oil production. We feel the science has demonstrated that the Lizard population already had proven its ability to coexist with an industry which is implementing voluntary conservation methods. With the recent negotiation of historic private-public conservation agreements with your department covering the vast majority of the lizard's habitat there can be no serious need for any listing whatsoever. Independent of the lack of justifying science, the protection to the species from these voluntary agreements in itself compels a no listing determination.

Thank you for your consideration of this important issue.

Sincerely,



Steve Pearce
Member of Congress



Francisco "Quico" Canseco
Member of Congress



John Carter
Member of Congress



Kay Granger
Member of Congress



K. Michael Conaway
Member of Congress



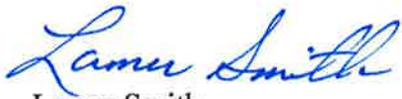
Randy Neugebauer
Member of Congress



Kevin Brady
Member of Congress



Ralph Hall
Member of Congress



Lamar Smith
Member of Congress



Bill Flores
Member of Congress



Blake Farenthold
Member of Congress

CC: Dan Ashe, Director, US Fish and Wildlife Service