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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Tucson Herpetological Society; Defenders
of Wildlife; Center for Biological
Diversity; Horned Lizard Conservation
Society; Sierra Club; Dr. Wendy Hodges;
and Dr. Francis Allan Muth,

Plaintiffs,

vs.

Ken Salazar, in his official capacity of
Secretary of the Interior; Dale Hall, in his
official capacity of Director of the U.S.)
Fish and Wildlife Service,

Defendants.

No. CV04-0075-PHX-NVW

JUDGMENT PURSUANT TO MANDATE

Pursuant to mandate of the United States Court of Appeals for the Ninth Circuit,
filed July 28, 2009 (doc. # 127),

IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The order denying Plaintiffs' motion for summary judgment and granting
Defendants' motion for summary judgment (doc. # 118), and the Clerk's judgment in
favor of Defendants (doc. # 119) are vacated.

2. The Fish and Wildlife Service's June 28, 2006 (71 Fed. Reg. 36745)
decision and the incorporated January 3, 2003 (68 Fed. Reg. 331), decision to withdraw
the Proposed Rule to list the flat-tailed horned lizard are vacated and remanded to the


1 agency for a new final listing decision on the Proposed Rule to list the flat-tailed horned
2 lizard as required by the Court of Appeals' orders in this case, filed May 18 and July 28,
3 2009, and in accordance with the deadlines set forth in 16 U.S.C. § 1533(b), measured
4 from the date of this judgment.

5 4. The 1993 Proposed Rule to list the flat-tailed horned lizard is reinstated
6 until and unless the agency takes other action.

7 5. Any other claims are denied.

8 6. This judgment is final on all claims, and the Court does not retain any
9 jurisdiction of this matter. The Clerk shall terminate this action.

10 DATED this 2nd day of November, 2009.

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Neil V. Wake
United States District Judge
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