



Though voluntary, lizard conservation agreements will be kept -- DOI

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Land users in New Mexico and Texas will be held accountable for agreements to conserve and restore habitat for the dunes sagebrush lizard, Obama administration officials said today after withdrawing a proposal to list the reptile under the Endangered Species Act.

While the scores of oil and gas companies, ranchers and other land users who signed voluntary conservation agreements are not legally obligated to follow them, the potential for a future listing gives them every incentive to do so, said Fish and Wildlife Service Director Dan Ashe.

“Voluntary conservation is voluntary conservation,” Ashe said during a conference call this afternoon with reporters. “But we are going to hold the parties accountable. If they don’t live up to the agreements and we continue to lose the habitat for the dunes sagebrush lizard, then we can propose to list it.”

Today’s decision to withdraw a December 2010 proposal to list the 3-inch-long lizard as endangered was widely praised by lawmakers, local officials, and the oil and gas industry (Greenwire, June 13). While opposed by WildEarth Guardians and the Center for Biological Diversity, which petitioned to list the lizard in 2002, the move was

endorsed this afternoon by the Environmental Defense Fund, which praised the administration’s proactive engagement with landowners.

“We’re very pleased with this approach,” said David Festa, vice president of EDF’s land, water and wildlife program, noting that a vast majority of wildlife depends on private lands for survival. “We think our first tool in the toolkit should be forming mutually beneficial alliances like this.”

Interior Secretary Ken Salazar said that the mixed reaction among environmental groups is not unexpected, but that some groups “may just want to keep the conflict going for conflict’s sake.”

Ashe said today’s decision was “science-driven” and the result of “an unprecedented commitment to voluntary conservation.”

Agreements totaling roughly 650,000 acres -- covering 88 percent of the lizard’s habitat -- are already bearing fruit, he said. In New Mexico, more than 100 old drilling pads and associated roads within lizard habitat have been reclaimed, he said. In Texas, \$800,000 is available for permit holders to begin habitat restoration prior to any disturbance of dunes lizard habitat.

In addition, steps will be taken to keep oil and gas development out of occupied lizard habi-

tat. The destruction of shinnery oak through herbicide and off-highway vehicle use will be curtailed, he said.

“We believe there’s clear and compelling evidence that these conservation agreements are going to be effective,” he said. As a backstop, the agency will continue to monitor the lizard’s habitat and reserves the right to reinitiate a listing in the future, he said.

But those assurances did little to appease the Center for Biological Diversity, which blamed today’s decision on oil industry lobbying and a Republican-led misinformation campaign.

The group in the past has criticized the Texas conservation plan for giving landowners and oil and gas operators too much discretion to decide when to protect the lizard. The state’s plan is riddled with phrases such as “when possible,” “when practical” and “when feasible” (Greenwire, March 23).

“Today’s decision was based on politics, not science,” said CBD’s Taylor McKinnon. “By caving to the oil and gas industry, the Obama administration is doing wrong by this rare lizard, it’s ignoring science and it’s setting a dangerous precedent for other declining species.”

Salazar said he’s hopeful the success in conserving the lizard could be replicated elsewhere in the West to conserve and preclude a listing for the sage grouse. A court settlement requires FWS to issue a final listing determination for the football-sized bird by 2015.

Governors, state wildlife agencies, ranchers, hunters and conservationists working to

protect sage grouse across several states should “take inspiration” from today’s decision, Salazar said.

Sen. James Inhofe (R-Okla.), a frequent critic of Endangered Species Act regulations, said after speaking with Ashe today that he believes voluntary conservation agreements could also prevent an ESA listing for the lesser prairie chicken, which he contends would be disastrous for the state’s energy industry.

“This listing was prevented by the tremendously successful cooperation between local, state and private landowners working together to save the sand dune lizard -- and Oklahoma is having the same success in stabilizing the lesser prairie-chicken population,” he said in a statement. “I was very encouraged by Director Ashe’s assurance today that Oklahoma has the ‘right ingredients’ for a similar decision on the lesser prairie-chicken.”

FWS’s settlement with environmental groups requires a proposal for the prairie chicken, which is a candidate for listing, this year.

While today’s withdrawal is not unprecedented, past court cases suggest the agency could face difficult legal challenges in the months and years ahead.

For example, a federal court in Oregon declared the National Marine Fisheries Service had improperly relied on the state’s voluntary conservation plan when it withdrew a proposal to list the coho salmon in 1997. That same year, a federal court in Texas overturned FWS’s decision to withdraw its proposed listing of the rare Barton Springs salamander, arguing the state’s conservation plan does “not take any tangible steps to reduce the immediate threat to the species.”

“They’ve got to be sure that those conservation efforts are truly effective and truly enforceable,” said Bill Snape, an attorney with CBD.

“We may litigate, and we’re certainly going to watch the situation extraordinarily carefully,” Snape added. “If this is a true pig in a poke, we’re going to go after the agency.”

But the court of public opinion today appeared largely supportive.

In a coarse jab at government’s regulatory reach, the Texas General Land Office today announced, “Federal reptile dysfunction defeated.”

“This is a major victory for Texas jobs and our energy economy,” said Texas Comptroller Susan Combs, who led the state’s conservation plan and lauded energy producers and other stakeholders who enrolled nearly 250,000 acres in west Texas. “This decision proves we don’t have to choose between the environment and our economy, but can be good stewards of both.”

Sen. John Cornyn (R-Texas), who authored legislative proposals to prevent a lizard listing, said today’s decision was made possible by FWS’s agreement to his request to delay its decision by six months.

“Today’s decision shows us the value in local input and due diligence when it comes to federal rulings on local issues,” he said. “Through a six-month delay, Texans who would be impacted the most were given the time they needed to gather compelling data that played a critical role in the preventing the listing.”

Sen. Tom Udall joined fellow New Mexico Democrat Sen. Jeff Bingaman in praising the decision.

“Today’s decision is unprecedented in the history of the Endangered Species Act and represents a potential breakthrough in maximizing ecosystem preservation and minimizing conflict,” Udall said. “It’s the result of months of collaboration and serves as a testament to the positive efforts of New Mexico land agencies, ranchers and oil and gas producers who reached a compact that simultaneously protects the local economy and the lizard.”