



Interior won't list Southwest lizard

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The Obama administration this afternoon will announce that the dunes sagebrush lizard, which roams roughly half-a-million acres in southeast New Mexico and west Texas, will not be listed as endangered as initially proposed, a surprising decision that drew praise from local lawmakers and oil and gas firms while drawing a sharp rebuke from environmentalists.

The decision comes a year and a half after the Fish and Wildlife Service announced a draft proposal to list the 3-inch-long reptile, warning it “faces immediate and significant threats due to oil and gas activities, and herbicide treatments.”

The White House this morning said state-led voluntary conservation efforts to protect the lizard's shinnery oak dune habitat and reduce impacts from Permian Basin drilling now cover roughly 90 percent of the lizard's habitat in New Mexico and 70 percent of its habitat in Texas.

In addition, the Interior Department has reviewed new scientific information from Texas A&M University that has identified additional occupied sites for the lizard, especially in Texas.

“The dunes sagebrush lizard does not need the protection of the Endangered Species Act because unprecedented voluntary conservation agreements now in place in New Mexico and Texas will ensure the long-term protection and recovery of the species,” the White House said this morning in an emailed statement obtained by Greenwire.

Today's announcement, which is scheduled for 1:30 p.m. EDT, drew early applause from Rep. Steve Pearce (R-N.M.), an outspoken opponent of the listing, as well as New Mexico's Democratic Sens. Jeff Bingaman and Tom Udall, who called today's decision a “great example of how voluntary cooperative agreements are being used to help protect a habitat and a species, while allowing oil and gas development to continue in southeastern New Mexico.”

Conservationists said they were not surprised the administration backtracked on the proposed listing but pledged to closely scrutinize the conservation agreements put in place.

“The way the act is written, they've got to be sure that those conservation efforts are truly effective and truly enforceable,” said Bill Snape, an attorney with the Center for Biological Diversity, which petitioned the Fish and Wildlife Service to list the species in 2002.

“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.”

Mark Salvo, wildlife program director for WildEarth Guardians, said existing conservation protections are too weak to ensure the lizard is not extirpated from the remaining portions of its range, particularly in Texas.

“This is an unfortunate decision,” he said. “There is no species more deserving of federal protection than the dunes sagebrush lizard.”

The lizard over the past couple of years has been a political lightning rod in Texas and New Mexico, which together produce more than one-fifth of the onshore oil in the United States. Rhetoric intensified earlier this year as the price of crude rose and industry groups increasingly urged that the listing be called off.

In addition, the listing proposal was debated in an election year in which New Mexico is viewed as key to the president’s re-election bid.

The Independent Petroleum Association of America today said the decision proves energy development and species protections can coexist.

“The Fish and Wildlife Service has made the right decision regarding the protection status of the dunes sagebrush lizard,” said IPAA President Barry Russell. “The Interior Department’s decision affirms the fact that oil and natural gas development and environmental protection are not in opposition, as it recognizes the successful conservation efforts of regulators, nonprofit groups and industry working together at the state level.”

Pearce, a former oil field service company owner, called the decision a “huge victory” for New Mexicans and oil industry jobs. “I extend my gratitude to the New Mexicans who came to the table and, through good faith efforts, voluntarily protected the lizard’s habitat.”

Interior Secretary Ken Salazar in February had hinted to lawmakers that voluntary conservation agreements -- which include Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances -- could eliminate the need for a listing.

“This is a great example of how states and landowners are taking early, landscape-level action to protect a creature and its habitat before it requires the protection of the Endangered Species Act,” Salazar is set to announce today, according to the White House release. “The voluntary conservation efforts of Texas and New Mexico, oil and gas operators, private landowners and other stakeholders show that we don’t have to choose between energy development and the protection of our land and wildlife -- we can do both.”

In the past, voluntary conservation plans have rarely, if ever, allowed the agency to withdraw a proposed listing.

Snape said the agency’s withdrawal of a proposal in the early 1990s to list the flat-tailed horned lizard as threatened in Southern California and Arizona has been repeatedly derailed by lawsuits claiming conservation agreements are insufficient.

“It’s definitely one of the gray areas of the act,” he said. “The whole point is the conservation agreement has to be proven to have relieved the threats to the species.”

In past cases, the federal government has lost when it backtracked on proposed listings based on newly minted conservation plans.

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."

Oil and gas development, grazing, agriculture and other disturbances have destroyed about 40 percent of the lizard's habitat in the past three decades, from 1 million acres to 600,000 acres, according to the government's proposed listing rule in December 2010. In Texas, the lizards no longer occupy 86 percent of historically occupied sites, the agency found.

In addition, many areas occupied by the lizard are targeted for future drilling, which could further fragment the lizard's shinnery oak habitat with roads and well pads, pipelines and power lines. In one Bureau of Land Management district that incorporates all of the lizard's habitat in New Mexico, roughly 100 new wells are expected to be drilled each year over the next two decades, FWS said.

At the same time, environmentalists are promising a federal listing -- which would require federal agencies to consult with FWS to ensure their actions will not jeopardize the lizard while requiring permits to kill or dis-

turb the animals -- would not drive the oil and gas industry out of business.

"The fact that dunes sagebrush lizard habitat spans less than 2 percent of the Permian Basin hasn't stopped oil-polluted politicians from claiming that protecting the lizard will destroy industry," said Taylor McKinnon of the Center for Biological Diversity in February.