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## White House retreats on endangered species protection for lizard

By Stephen Dinan

The Obama administration backtracked Wednesday and announced it will not declare the dunes sagebrush lizard an endangered species, saying voluntary efforts by New Mexico and Texas have headed off the need for the federal government to step in.

The move breaks new ground in the decades-old Endangered Species Act by relying on conservation agreements between those two states and oil and gas companies, which have promised to take steps to preserve the lizard's habitat. Without those agreements, the federal government said it would have been forced to invoke the act.

Environmental groups criticized the decision, saying the Interior Department caved to energy companies and ignored the science that shows the lizard's habitat is disappearing — which they said should have automatically triggered the act.

But Interior Secretary Kenneth L. Salazar said the voluntary conservation agreements will end up protecting nearly 90 percent of the lizard's habitat, which he noted is the fundamental goal of the federal endangered species law.

"The effort is nothing short of historic," he said.

He called the deal a "template" for working on endangered species conflicts in other parts of the country. That could be welcome news to landowners and businesses that have grown increasingly worried about clashing with the Obama administration over the Endangered Species Act.

The law has been controversial since President Nixon signed it in 1973. It is credited with helping restore some iconic species such as the bald eagle and whooping crane, but opponents say some listings have unnecessarily hurt industry. Republicans in Congress have called for the law to be updated to prevent environmentalists from abusing it.

The dune sagebrush lizard lives in shinnery oak grasslands in New Mexico and Texas — areas that also are being explored for oil and natural gas.

In December 2010, the U.S. Fish and Wildlife Service proposed listing the lizard as endangered, which would trigger special habitat protections.

But the service Wednesday withdrew the proposal, saying the habitat is not as endangered as officials had

first thought, chiefly because of industry promises to protect the land.

"Based on an analysis of these conservation plans and the protections they provide, we have determined the lizard is no longer in danger of extinction and is not likely to become endangered in the foreseeable future," said Dan Ashe, the service's director.

Under separate voluntary agreements reached in recent months in Texas and New Mexico, oil and gas companies agreed not to explore in prime but fragile habitat, and in some cases landowners agreed to try to restore damaged habitat.

Mr. Ashe said that while the agreements are not "legally enforceable" under the Endangered Species Act, they are legal contracts between the two sides. He and Mr. Salazar said federal officials can always come in later and invoke the Endangered Species Act if the voluntary agreements fail.

Environmentalists had pushed vociferously for the lizard to be listed as endangered, which would have triggered automatic federal protections. After Wednesday's announcement, they said the Obama administration had been badgered into caving to energy companies.

“Biologically, there is no species more deserving of listing than the dunes sagebrush lizard,” said Mark Salvo, wildlife program director for WildEarth Guardians. “We hope the species can persist without federal protection.”

Jay Lininger, an ecologist for the Center for Biological Diversity, which had pushed for an endangerment finding, said the oil and gas companies have no intention of preserving the habitat.

“Promises to conserve the animal’s disappearing habitat will vanish into thin air,” he predicted. “The dune sagebrush lizard is in trouble. The science is very clear about that, and today the Obama administration caved to pressure from the oil and gas industry.”

There may be legal grounds to challenge the administration’s move. The Endangered Species Act sets specific requirements for conservation agreements such as the ones in Texas and New Mexico, and Mr. Lininger said Texas’ agreement appears to fall short because it doesn’t have a specified level of funding.

But Mr. Salazar and Mr. Ashe both said they have confidence the agreements will suffice in lieu of an official listing.

“Based on an analysis of these conservation plans and the protections they provide, we have determined the lizard is no longer in danger of extinction and is not likely to become endangered in the foreseeable future,” Mr. Ashe told reporters on a conference call announcing the decision.

Lawmakers on both sides of the aisle praised the deal as an example of how environmental protection and business needs can cooperate rather than clash.

“This is a huge victory for the people who have tirelessly fought to save regional jobs and our way of life,” said Rep. Stevan Pearce, New Mexico Republican, who had vehemently fought the listing.