

Basin businesses pleased with lizard decision

Environmentalists vow to continue fight

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This undated file photo provided by the U.S. Fish and Wildlife Service shows a sand dune lizard in Chaves County, N.M.

A contentious battle over a rare lizard found only in New Mexico and West Texas' oil and gas country took a surprising turn Wednesday with federal officials deciding not to bestow endangered species protections on the small reptile.

Texas Comptroller Susan Combs spoke for many in the area in her evaluation of the decision.

"It's a huge win for the Permian Basin," Combs said.

In the past, some local oil and gas industry members like Permian Basin Petroleum Association executive director Ben Shepperd worried that that an endangered species listing could cause a dramatic impact on oil and gas production in the area, potentially crippling the local economy.

Wednesday's decision allayed those fears.

"We think the Fish and Wildlife Services got it right," Shepperd said.

Environmental groups, however, have accused the Fish and Wildlife Service of caving to political pressure and energy interests.

"We will be taking a very close look at litigating this decision," Center for Biological Diversity representative Taylor McKinnon said.

U.S. Interior Secretary Ken Salazar said the much-anticipated decision over the dunes sagebrush lizard was based on the "best available science" and because of voluntary conservation agreements now in place in the two states.

"This is a great example of how states and landowners can take early, landscape-level action to protect wildlife habitat before a species is listed under the Endangered Species Act," Salazar said in a conference call. "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."

Congressional members praised the decision for a compromise that could signal a shift in the way the government deals with a long list of plants and animals awaiting federal protections.

"I think that under the Endanger Species Act, if you look at these conservation agreements, they have real potential. This should be a model for how we deal with these kinds of issues," said U.S. Sen. Tom Udall, D-N.M.

The Fish and Wildlife Service delayed a final decision on the lizard earlier this year after an outcry from members of Congress and communities in both states that rely on oil and gas development for jobs and tax revenue.

The lizard is native to a small area of southeastern New Mexico and West Texas. It is found only in sand dune complexes that have shinnery oak.

The primary threat to the lizard is oil and gas development near the dune complexes and oak removal stemming from the need for more forage for grazing, according to federal biologists.

Oil and gas producers throughout the Permian Basin say protecting the species could stop production, since federal protections would mean the lizard's habitat cannot be disturbed. The basin produces more than 1 million barrels of oil a day.

Republicans U.S. Sen. John Cornyn of Texas, Rep. Steve Pearce of New Mexico and congressional members from several other states sent letters to the agency and Salazar seeking the delay on a final decision, echoing the industry's concerns.

Environmentalists have argued that lizard habitat makes up only a fraction of the areas being used by energy developers and that listing would not impair the industry. They called the decision not to list the lizard "unfortunate."

"There is no species more deserving of federal protection than the dunes sagebrush lizard. Existing conservation measures, particularly in Texas, are so weak that I fear the species may become extirpated in parts of its remaining range," said Mark Salvo,

wildlife program director for the New Mexico-based group WildEarth Guardians.

Since the final decision has been made, the courts are next the form of recourse for those who disagree with U.S. Fish and Wildlife's choice, said McKinnon, with Center for Biological Diversity.

While voluntary conservation measures are still in place, McKinnon said have issues like a lack of accountability.

The oil and gas industry praised the decision.

"We have always contended that the best available science did not warrant a listing," Shepperd said.

U.S. Congressman Mike Conaway echoed Shepperd's sentiments, stating that he planned on continuing to push for improvements in the Endangered Species Act.

Both Conaway and Comptroller Combs had, in the past, expressed concern about the economic impact a listing could have on West Texas.

In May, federal officials said energy industry had made enough progress toward conserving habitat in Texas and New Mexico that its efforts may help prevent the reptile from being listed. About 95 percent of the lizard's habitat in New Mexico and more than 70 percent of it in West Texas are under voluntary conservation contracts.

The agreements mean ranchers, the energy industry and the states agree to avoid the habitat or pay a fee if they cannot.

Under the conservation agreements, operators have agreed to avoid lizard habitat and buffer areas in the future, and ranchers pledged not to spray in the region. If those moves are unavoidable, the operators would pay a fee into a fund that would be used to restore habitat, including the removal of invasive mesquite brush and oil and gas development paths and roads that have fragmented the habitat.

Interested landowners can continue signing up for the voluntary conservation agreements and the identities of those involved in the agreements are kept confidential, Texas Habitat Conservation Foundation Director Jason Brooks said.

While there are no immediate repercussions for individuals who are not involved in an agreement but cause major damage to lizards and their habitat, there could be long term consequences, U.S Fish and Wildlife representative Tom Buckley said.

If conservation efforts are not successful in the long term and the lizard becomes endangered again U.S. Fish and Wildlife could decide to re-list the lizard, Buckley said.

But Buckley said that he expected to see landowners continuing to sign up for the voluntary conservation agreements.

Federal officials said state-led voluntary conservation efforts have reduced the impact of oil and gas development across the species' range. They cover more than 650,000 acres in New Mexico and Texas, which presents about 88 percent of the lizard's habitat.

Fish and Wildlife Service Director Dan Ashe said that officials have determined that the lizard is not in trouble based on the agreements.

"It's not likely to become endangered in the future," Ashe said.