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## ENDANGERED SPECIES: FWS predicts little disruption from possible sagebrush lizard listing

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As the Fish and Wildlife Service prepares to issue its decision on whether to add the Southwest's sagebrush lizard to the endangered species list, some in Congress and the oil and gas industry are urging the agency to take more time to consider the impacts that such a listing would have on drilling operations.

But FWS officials say dire predictions about an Endangered Species Act listing's effect on energy development are grossly overblown.

FWS is expected to issue a decision by Dec. 14 on whether to list the sagebrush lizard, which occupies a narrow swath of semi-desert on the New Mexico-Texas border. While its habitat may not be extensive, it overlies one of the country's most productive oil and gas reserves -- the Permian Basin -- which accounts for about 20 percent of U.S. oil production.

Efforts to extend Endangered Species Act protection to the rare dunes sagebrush lizard have stirred opposition among GOP lawmakers and energy industry officials who fear such a listing would impede oil and gas development. Photo courtesy of Texas General Land Office.



Rep. Steve Pearce (R-N.M.) and Sen. John Cornyn (R-Texas) have led the fight in Washington against an ESA listing since the lizard was first proposed for federal protection almost a year ago.

Those efforts, which have included a failed congressional amendment and a rally in New Mexico, escalated last week when Cornyn urged FWS officials to put off the agency's decision for six months, arguing that it should account for how an ESA listing could affect the oil and gas industry and private landowners who depend on drilling and ranching for their livelihoods.

The Permian Basin Petroleum Association has warned that some companies could face permitting delays of up to 18 months for drilling operations on both public and private lands, potentially costing thousands of jobs (E&E Daily, Oct. 24).

"FWS has not produced sufficient evidence that this listing is warranted; instead, the potential listing is based on contradictory, inaccurately embellished, and controversial science," Pearce said in a statement responding to questions from Land Letter, adding that "thousands of jobs are at stake" if the listing is granted.

"During these difficult economic times, we cannot afford to needlessly sacrifice even a single job," he added. "Fish and Wildlife readily admits that they have never done an economic analysis of the listing, but continue to peddle the notion that it won't have an impact on jobs."

Cornyn discussed the matter last week with FWS Director Dan Ashe and Southwest Region Director Benjamin Tuggle via teleconference during a meeting in Midland, Texas, where the government officials addressed industry and ranching representatives and local officials, according to Tom Buckley, a spokesman in FWS's Albuquerque, N.M., office.

Yet despite the dire warnings, FWS says a listing would likely have little effect on energy production or ranching in the basin.

While federal protection would prohibit harm to the species, and the Bureau of Land Management

would have to consult with FWS on potential impacts associated with oil and gas drilling on federal lands, Buckley said the overall effect on industry would be small.

“There’s been a lot of misinformation that’s been put out there,” he said. “A lot of people are very anxious. I wouldn’t blame them if the info was true, but it’s not true. Any impacts will be very minor if they’re there at all.”

The small dunes on which the lizard lives -- it relies on the shiny oak, which grows on them, for cover -- can easily be worked around, Buckley noted.

“The habitat is spotty, it’s here and there, so drilling can take place as long as they’re not putting the rigs right on top of the dunes,” Buckley said. “They can be close to the dunes, a few yards away, but not right on top of them. It shouldn’t prevent putting a well in.”

Even some environmental groups that have pushed for federal protection of the sagebrush lizard agree that drilling and lizards can coexist on public lands.

In a report released last year, the Center for Biological Diversity said its analysis of BLM data found that protecting the dunes sagebrush lizard would affect less than 1 percent of public lands proposed for leasing in 2010 and 2011.

“There’s an abundance of oil and gas development that’s available, and a tiny fraction of that occurs on lizard habitat. In fact, there are many leases that are available but not purchased,” said Taylor McKinnon, public lands campaign director for the Center for Biologi-

cal Diversity. “Meanwhile, protecting these tiny last slivers of habitat is being portrayed as doom. It just doesn’t stack up. It’s like the industry isn’t willing to yield anything, even these small slivers of habitat.”

#### Flexibility under ESA

Energy companies and landowners whose operations do encroach on lizard habitat could enter into habitat conservation plans (HCPs) with FWS, which allow for the continuation of normal activities while still ensuring the overall protection of a listed species, Buckley said. For instance, a signatory might be able to alter habitat or even harm an animal as long as he or she improved conditions for the species elsewhere on the property or lease.

Meanwhile, about 20 entities, including four energy companies and 16 private landowners, are participating in voluntary “candidate conservation agreements” (CCAs), which are designed to encourage conservation of species on the ESA candidate list. CCAs also provide greater certainty that if a species does become listed, landowners will not be required to make significant changes to their activities. Those CCA agreements would simply be reworked into HCPs if the species were listed, Buckley said.

Pearce has said he supports the candidate conservation agreements and that FWS should give them time to work before listing the lizard as endangered or threatened.

Under federal rules, FWS can delay a listing decision for six months, but only if new scientific data are presented that require further analysis, Buckley said. Economic analyses can be done only when FWS is considering whether to designate critical habitat for a

species that is already listed, he added. “We can’t consider the economic impact at this stage,” he said. “Right now there’s a lot of political pressure to either extend or make a non listing decision, but we have to follow what the science tells us.”

New data showing that threats to the lizard have lessened or that the science in the listing proposal is flawed would have to be presented by Dec. 14 to prompt a delay in the listing decision, he added.