

ALAMAGORDO DAILY NEWS

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March 17, 2012

Lizard debate continues

Spring a time of reckoning for a rare critter and the U.S. Endangered Species Act

By Milan Simonich, Texas-New Mexico Newspapers

SANTA FE Perhaps the most controversial candidate in this election year is one that has never spoken a word and never will.

The dunes sagebrush lizard, a candidate for listing under the Endangered Species Act, is the central figure in a debate that the federal government must resolve this spring.

Should the U.S. Fish and Wildlife Service protect the small reptile against the wishes of the oil and gas industry in Texas and New Mexico? Or should the government rely on voluntary but legally binding agreements in which businesses and landowners pledge to co-exist with the reptile?

The dunes sagebrush lizard, tan, striped and about the size of a human hand, exists only in parts of four counties in southeastern New Mexico and four others in West Texas.

Lee Fitzgerald, a biologist at Texas A&M, probably has studied this reptile as much as anyone.

Apolitical and determined to remain so, Fitzgerald has not joined the partisan conflict in which conservation groups are pressing for the lizard's listing and Republican politicians are trying to defeat it.

Fitzgerald searched for the lizard last year in 50 locations of the desert. Even after locating it in 28 places, he said, he could not estimate its population.

"There are areas where the habitat is very optimal for the species," Fitzgerald said in an interview. "There also are areas of fragmentation of the species, where its habitat has been degraded."

To live, the dunes sagebrush lizard needs a combination of wind, sand and the shrub shinny oak. If the desert winds howl just right, they create blowouts in the sandy patches with shinny oak. The lizard can survive in those conditions but no others.

Fitzgerald said he saw evidence of herbicide spraying that had hurt one part of the lizard's habitat in West Texas. But he is neutral on whether such findings merit an endangered listing for the lizard.

"Much of the Endangered Species Act is a political process more than basic biological information," he said.

New Mexico state Rep. Dennis Kintigh is a leading opponent of the lizard being listed as endangered. He said the process for selecting endangered species is too secretive and too far removed from the public eye.

"I see the need for confrontation. We should have a process similar to that in a courtroom, when the attorneys on each side are equally skilled," said Kintigh, R-Roswell.

He was one of the few Republican lawmakers who criticized Daniel Ashe, director of the Fish and Wildlife Service, for postponing a decision on the lizard's listing last December.

Kintigh said Ashe was guilty of inaction, even after receiving years' worth of scientific data and arguments on whether the lizard should be protected.

Ashe, who had been in office only six months, said he needed another six months to decide on the lizard's status. That means his decision on the lizard will be handed down in June at the latest.

Republican members of Congress, including Sen. John Cornyn of Texas and Reps. Steve Pearce of New Mexico and Mike Conaway of Texas, asked Ashe for the delay. All oppose listing the lizard as endangered.

Pearce, the earliest of the opponents, said the lizard is an economic threat. Protecting it, he says, means jobs would be lost, perhaps in ranching and oil exploration.

He and other Republican politicians favor the voluntary agreements as means of accommodating industry without hurting the lizard. New Mexico has had such an agreement since 2008. Texas groups in February offered a similar plan to head off an endangered species listing for the lizard.

The Center for Biological Diversity submitted objections last week to the Texas plan.

"Since the state of Texas paid absolutely zero attention to this disappearing lizard until it was proposed for legal protection, we have real questions about what will happen once the threat of legal protections goes away," said Jay Lininger, an ecologist with the center.

Lininger disagrees with Pearce's assessment that protecting the lizard would come with economic costs. Lininger said its presence is so small that it would have no detrimental effect on jobs.

In the New Mexico counties of Chaves, Eddy, Lea and Roosevelt, the lizard lives in 655 square miles in Mescalero Sands.

"Texas hosts approximately 197,000 acres or one-third of all dunes sagebrush lizard habitat. About 5 percent of all lands in those counties are lizard habitat," Lininger said.

The lizard's range in Texas is in the counties of Andrews, Gaines, Ward, Winkler. The conservation group WildEarth Guardians says it historically was found in Crane County too, and possibly Cochran and Edwards counties.

Watching the conflict in the desert is Patrick Parenteau, a professor at the Vermont Law School, and a national expert on the Endangered Species Act.

Of the lizard potentially costing Texas and New Mexico jobs, Parenteau said in an interview: "I think that reaction is probably overblown."

He said the Fish and Wildlife Service had a history of protecting businesses as well as endangered species.

"Even if there's protection for the lizard, odds are the Fish and Wildlife Service is going to bend over backwards for industry," he said in an interview.

Moreover, the Endangered Species Act, on the books since 1973, has never stopped a development, Parenteau said.

"Even the Tellico Dam was built," he said of a Tennessee project that for a time was delayed in the '70s because of an endangered fish called the snail darter.

Parenteau said often-repeated claims that the Endangered Species Act has killed industries or jobs were myths.

For instance, he said, many critics of the Endangered Species Act say it ruined logging to save the spotted owl.

"Modernization of the mills cost those jobs, and the timber industry was going downhill fast anyway," he said.

The Endangered Species Act actually has helped the economy in numerous cases, Parenteau said.

Reintroduction of wolves in the northern Rockies has been good for tourism, he said. And the Northwest, by saving its old-growth forests, became attractive to high-tech entrepreneurs such as Bill Gates, he said.