



## ENDANGERED SPECIES:

### Texas has mismanaged habitat plan for imperiled lizard -- report

Phil Taylor, E&E reporter  
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Texas has failed to report impacts from oil and gas development on the dunes sagebrush lizard, a violation of the habitat conservation plan the state signed with the Interior Department to keep the reptile off the endangered species list, according to a new report from Defenders of Wildlife.

The Texas comptroller in March told the Fish and Wildlife Service that landowners and oil and gas developers in west Texas who were participating in its conservation plan had caused no new surface disturbances to the lizard's shinnery oak dune habitat in 2012.

But imagery from government satellites and aircraft found multiple instances of surface disturbance on habitat enrolled by Conoco-Phillips Co., which operates in the oil-rich Permian Basin, according to the Defenders investigation.

The finding raises questions about Fish and Wildlife's reliance on the state to ensure that voluntary conservation commitments are carried out, Defenders said.

Fish and Wildlife in summer 2012 withdrew a proposal to list the lizard as endangered, saying voluntary conservation agreements, including the Texas plan, would safeguard the lizard's habitat.

"Given the terms of the Texas plan, it seemed suspicious that the comptroller's reports cited no habitat disturbance through May 2013, when the areas in question are experiencing some of the heaviest oil and gas development in Texas," said Ya-Wei Li, endangered species policy adviser at Defenders.

Defenders and the Center for Biological Diversity in June filed a lawsuit challenging FWS's decision to withdraw the listing proposal, arguing that the agency knew too little about what commitments individual landowners and drillers in Texas had actually made (E&ENews PM, June 19).

Today's report found multiple instances of land being disturbed in enrolled habitat in Andrews, Crane and Winkler counties, including a 40-meter-wide clearing running for several miles, new roads and new or expanded well pads.

None of those disturbances had been reported by the state, even though the total amount of habitat disturbance under the plan is capped at 1 percent within the first three years.

"If the disturbance continues to [go] unreported, the service will have no way to know if and when the 1 percent limit is reached," Defenders said.

Today's report follows an earlier investigation by Defenders in March that found Texas' transparency laws precluded Fish and Wildlife from knowing who was enrolled in the state's conservation plan and what steps they would take to protect the lizard from oil wells, truck traffic and new transmission lines (Greenwire, March 6).

"We were doubly disappointed to discover the unreported surface disturbances shown in this document," Defenders said in its latest report. "They suggest serious gaps with how the Texas Comptroller is implementing and FWS is overseeing the Texas Plan."

At the time of the comptroller's report in March, 138,640 acres was enrolled under the Texas plan.

Environmentalists have also raised concerns with the comptroller's decision to have the lizard conservation program administered by the Texas Habitat Conservation Foundation, which was initially run by three registered lobbyists for the Texas Oil and Gas Association.

In a June interview, Fish and Wildlife Director Dan Ashe said the cooperation of the state is crucial for protecting the lizard, much of whose habitat exists on private lands.

While environmentalists have raised "a legitimate point" about the transparency of the Texas plan, Ashe said the state must enforce its confidentiality rules.

Even if the lizard were listed, the agency still would not have the authority to enter private lands to verify conservation steps were being followed, he said.

"So here we've got a state that's cooperating with us, working with an industry that's cooperating with us to conserve the species," he said. "I think that's the best outcome for the species."

The agency in late 2010 had warned that oil and gas development, grazing, agriculture and other disturbances had destroyed about 40 percent of the lizard's habitat in the past three decades, reducing it from 1 million acres to 600,000 acres.

The Texas comptroller did not respond to the Defenders report by press time, but in a press release last week, Comptroller Susan Combs defended the integrity of the state's conservation plan.

"I am very proud of the plan the stakeholders developed -- it provides protection for the DSL, including much-needed research on the species, while protecting our state economy," Combs said. "The plan calls for monthly and annual reports in addition to specific safeguards to protect the DSL habitat."

She said the agency shares "aggregated information" with FWS and has arranged for the federal agency to visit the lizard's habitat.