



Fish and Wildlife Service sued over decision to not list dunes sagebrush lizard

Two groups say Texas conservation plan too vague, overseen by oil industry insiders

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By Mella McEwen

A year after the U.S. Fish and Wildlife Service decided not to list the dunes sagebrush lizard as endangered under the Endangered Species Act, the reptile is the subject of a lawsuit filed Wednesday by Defenders of Wildlife and the Center for Biological Diversity.

The lawsuit focuses on Texas' voluntary conservation plan, which the two groups say risks the lizard's future "by relying on a voluntary state conservation plan in which Texas maintains that individual agreements with landowners to conserve the lizards' habitat cannot be made available to the federal agency or the public." New Mexico's conservation plan was not part of the lawsuit.

"The Fish and Wildlife Service is operating completely in the dark in Texas on this one," said Jason Rylander, senior attorney for Defenders of Wildlife in announcing the lawsuit. "Denying Endangered Species Act protection for a species that is clearly imperiled based on a wink and a nod from the state is



Photos by U.S. Fish & Wildlife Services

downright negligent at best, since the service has no way of validating the quality or effectiveness of the agreements."

Said Noah Greenwald, endangered species director at the Center for Biological Diversity, "It may sound cliché, but this really is an example of letting the fox guard the hen house. The dunes sagebrush lizard is hanging by a thread and needs the protections of the Endangered Species Act to have any chance at survival."

Ben Shepperd, president of the Permian Basin Petroleum Association, said that while he had not yet read the lawsuit, "I feel the Fish and Wildlife Service made the correct decision not to list the lizard. The

reason is that the decision was based on scientific fact and that is the data did not justify a listing. The lizard is doing just fine. The population appears to be strong, based on studies we've seen."

The two groups noted, in announcing the lawsuit, that the species' narrow range has gotten narrower due to increased oil and gas drilling and herbicide spraying on livestock grazing land.

Shepperd said such claims "of habitat fragmentation have been vastly overblown. Recent studies have shown over the last 40 years, less than 10 percent of the lizard's habitat has been fragmented or developed. That doesn't appear to be a large impact."

He added, "we encourage the Fish and Wildlife Service to stand behind that decision."

In announcing the lawsuit, Defenders of Wildlife and the Center for Biological Diversity criticized the Texas conservation agreement, saying it only vaguely described the actions required and leaving specific conservation measures to be spelled out in certificates between each participant and the state of Texas. They criticized the fact that those certificates are guarded from public access by state law, leaving "no way for Fish and Wildlife, or scientists and other experts, to determine whether such measures are adequate to prevent the lizard's extinction. The lack of knowledge and transparency in this case not only further threatens the survival of dunes sagebrush lizard, but also sets a dangerous precedent for other species waiting in line for protection."

Compounding the problem, the two groups said, Texas has delegated authority to implement the agreement to a private entity, the "Texas Habitat Conservation Foundation," which is run by three lobbyists from the Texas Oil and Gas Association.