



Dunes lizard object of lawsuit



The dunes sagebrush lizard is at the center of a dispute over the Endangered Species Act. (courtesy of texas general land office)

By Rene Romo / Journal South Reporter
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LAS CRUCES – Two organizations filed notice Thursday that they will sue the federal government over its reliance on confidential agreements in last year's decision to withhold Endangered Species Act protections for the dunes sagebrush lizard.

The two groups, the Center for Biological Diversity and Defenders of Wildlife, said the U.S. Fish and Wildlife Service erred by relying on voluntary habitat conservation agreements, signed by property owners in Texas, because those agreements are confidential, even from the federal government.

Federal officials will have no way of knowing whether promises by landowners in Texas will be kept, and they do not know now whether the measures will even be effective in preserving the lizard population, the organizations say.

"We have real questions about whether promises will be kept, now that the threat of regulatory protection has been removed," said Noah Greenwald, endangered species director for the Center for Biological Diversity. "In this case, we don't even know what those promises are, which is really problematic."

A lawsuit by the environmental groups will call into question how aggressively the Fish and Wildlife Service is pursuing protections of endangered species, in particular under the Obama administration.

"This kind of baldly political decision was commonplace under the Bush administration, but is deeply disappointing from President Obama," Greenwald said.

Oil and gas producers in the Permian Basin breathed a sigh of relief when the U.S. Fish and Wildlife Service decided last June to not list the lizard, a 3-inch-long reptile that lives only in sand dunes populated by shinnery oak in southeastern New Mexico and West Texas.

Habitat fragmentation caused by oil and gas development had been cited as a major factor in the agency's proposal, announced in December 2010, to list the lizard as endangered.

But when Interior Secretary Ken Salazar announced that the lizard would not receive endangered species protection, he cited a key factor: voluntary conservation agreements in which ranchers and oil and gas producers promised to protect most of the reptile's remaining habitat in New Mexico and Texas, or pay into a fund aimed at restoring habitat.

The voluntary conservation agreements in New Mexico are not confidential, but the green groups say that Texas has prevented federal wildlife officials, and the public, from reviewing that state's agreements.

So while promised conservation measures may be spelled out in certificates between program participants and the office of the Texas comptroller, federal biologists will remain in the dark about what conservation measures have been promised and whether those promises are kept, Greenwald said.

A Fish and Wildlife Service spokesman could not be reached for comment Thursday. Meanwhile, officials with the New Mexico Oil and Gas Association will "evaluate this as it unfolds," said Wally Drangmeister, its director of communications.

Members of the energy and livestock industry are currently signing on to the same type of voluntary conservation agreements in an effort to forestall federal listing of the lesser prairie chicken as a threatened species. Despite shrinking habitat, the lesser prairie chicken remains in five states, including New Mexico.