



Courthouse News Service

Push to Protect West Texas Lizard Moves Forward After Settlement

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CN) — A long-running effort by environmental groups to get a rare species of West Texas lizard added to the endangered species list took a step forward on Thursday, when the federal government settled a lawsuit over its alleged political delay in even considering the idea.

The fate of the dunes sagebrush lizard has been hotly debated for years, as the lizard lives in the heart of the nation's largest oilfield and adding it to the Endangered Species List could lead to new land use restrictions for oil companies.

The advocacy groups Defenders of Wildlife and the Center for Biological Diversity sued the Interior Department in October, claiming the government was dragging its feet on the groups' earlier proposal to list the lizard as either threatened or endangered.

On Thursday, Interior agreed as part of the settlement agreement to decide by the end of June whether it will at least formally consider the proposal.



Dunes sagebrush lizard. (Photo courtesy of U.S. Fish and Wildlife Service.)

The agreement requires the department to reach a conclusion on whether the groups' petition to list the lizard "presents substantial scientific or commercial information indicating that the petitioned action may be warranted."

"I think it's a win because the process is finally moving forward," said Jason Rylander, an attorney with Defenders of Wildlife. "This agreement does not include any date for completion of a listing proposal, but that'll be the next step, to make sure the [Trump] administration is moving forward swiftly."

Still, the government could ultimately decide the proposal is not even worth a closer look. The U.S. Fish and Wildlife Service withdrew a previous proposal to list the lizard as endangered in 2012.

It's undisputed that oil and gas activity has impacted the lizard's habitat, particularly in recent years as the West Texas fracking boom led to skyrocketing U.S. oil production before the industry's more recent collapse.

The lizards like to live in sand dunes where small, shrubby shinny oak trees grow, but those same dunes have been prime targets for companies that mine for sand used in the fracking process. Texas researchers have also shown how the building of oilfield roads and well pads leads to a more "fragmented" habitat with lower lizard populations.

The debate has centered on the best way to handle the problem. While environmental groups push for federal protections, Texas is asking the federal government to approve a state-level conservation plan. Industry groups, meanwhile, have promoted oil companies' voluntary efforts to protect the lizards, warning that a federal listing could harm their business in the region.

"The industry has invested millions of dollars in voluntary conservation efforts that are working to protect the species and its habitat," Todd Staples, president of the Texas Oil and Gas Association, said in a statement. "Listing the species remains unwarranted and would shut down significant oil and natural gas production and activity, which is the intent of the groups filing this latest petition."

Declaring the lizard threatened or endangered could restrict oilfield activity in several ways, according to University of Houston environmental law professor Tracy Hester.

"First, if the government lists the lizard as endangered, oil and gas operators could incur civil or criminal liability for 'takings' of the lizard without a permit," Hester said. "A 'take', in this case, would include intentionally and knowingly killing a protected lizard. 'Takings' can also include destruction of habitat critical to the lizard's survival, and U.S. Fish & Wildlife will have to designate what lands (and how much of it) that the lizard needs to survive as part of a listing decision."

Hester said federal protections for the lizard could also lead to more lengthy regulatory reviews for oil and gas projects that need federal permits.

The movement on the proposal comes as the U.S. oil industry is reeling from a collapse in oil prices and global demand, forces that have already led to a notable drop in oil production. But Rylander argued that stronger protections for the lizard are needed even if oilfield activity continues to decline.

"The lizard has lost a vast majority of its available habitat already," Rylander said. "Obviously this is a strange time right now, it's not clear whether that is a temporary blip or a whether that is a long-term trend, but in either event, there are steps that can be taken to preserve the lizard and its habitat and a listing will help us decide what those steps are."