

Congress of the United States
Washington, DC 20515

June 29, 2021

The Honorable Deb Haaland
Secretary
U.S. Department of Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Haaland,

We write to respectfully request your assistance to save the western monarch butterfly. We are asking for your help and immediate, emergency action by the federal government to prevent the extinction of this very important and iconic pollinator.

Earlier this year, we asked the U.S. Fish and Wildlife Service (FWS) to protect western monarch butterflies. That request, however, was rejected by the FWS. Moreover, the FWS stated that it would not begin to take any such action before 2024. Unfortunately, by that time, western monarch butterflies will almost certainly be lost forever. We cannot accept that indifference as our nation's most iconic butterfly vanishes. Thus, we ask that you use your emergency authority under the Endangered Species Act (ESA) to save western monarchs.

This winter, only 1,914 monarch butterflies returned home to their wintering grounds in coastal California. Compared to just twenty years ago when millions of monarchs returned every winter, today we are faced with the complete loss of a breathtaking biological spectacle. Across the west, monarch butterflies are quickly fading to just memories as citizen-scientists reported just 17 individual butterflies in Oregon last summer and under 50 from New Mexico. Without western monarchs, our children will be robbed of the opportunity to raise monarchs in classrooms and learn about how striped caterpillars transform into beautiful orange-and-black butterflies. Annual festivals celebrating our butterflies will soon become vigils and monuments to their extinction. Not just beautiful and iconic, monarch butterflies are critical to the health of our planet and its ecosystems. While feeding on nectar, monarch butterflies pollinate many types of wildflowers. They also serve as an important food source for birds, small animals, and other insects.

Under the ESA, you have the authority to immediately protect western monarch butterflies as an endangered species. Once that emergency listing is made, the ESA requires the federal government to spend the following eight months completing the remaining steps of the normal

rulemaking process.¹ Emergency protections can go into effect immediately so that western monarchs have the greatest chance of surviving this summer, and the population can start to rebuild. Given the overwhelming scientific evidence of the western monarch's imminent extinction, and the finding by the FWS that protections are already warranted,² now is the time to act.

The ESA is the world's most powerful tool to prevent extinction because Congress gave the FWS the authority to intervene early and proactively protect wildlife before a species reaches the precipice of global extinction. The ability to protect a species that is threatened or endangered in "a significant portion of its range" allows the FWS to protect monarch butterflies now precisely because the eleven states that the western population covers is clearly a significant portion of the monarch's range.³

When Congress passed the ESA in 1973, the bill's authors made clear their intent to protect imperiled species facing threats in a significant portion of their range. That authority is "perhaps the most important section of this bill"⁴ because it allows for the FWS to take action before a species reached the stage where it was "threatened with worldwide extinction."⁵ Indeed, that provision provided the means by which the FWS protected the Bald Eagle under the ESA⁶ and paved the way for the conservation actions needed to restore our national symbol across this country.

We understand that the ESA does not allow the FWS to list a "distinct population segment" of any invertebrate species. That means that protecting the western monarch butterfly will require the FWS to also protect the eastern population. Nevertheless, that should not be a deterrent to action. Your scientists predict that the eastern monarch also faces likely extinction in next few decades, and the spectacular multi-generational migration could collapse even sooner.⁷ Protecting monarchs now will provide an enormous conservation benefit, push the entire Department of Interior to truly take a landscape conservation approach to conserving pollinators, and save one of the greatest wildlife migrations on the planet from disappearing in our lifetimes.⁸

We also must note that President Joe Biden ordered the Department of Interior to review the previous administration's decision to delay protections for monarchs until 2024 or later.⁹ We

¹ 16 U.S.C. § 1533(b)(7). Emergency protections last for 240 days, during which time the Service can either propose to list the species following normal listing procedures or it can withdraw the proposal.

² 85 Fed. Reg. 81813, Endangered and Threatened Wildlife and Plants; 12-Month Finding for the Monarch Butterfly (Dec. 17, 2020), *available at*: <https://www.govinfo.gov/content/pkg/FR-2020-12-17/pdf/2020-27523.pdf>.

³ 16 U.S.C. § 1533(6); *see also* Defs. of Wildlife v. Norton, 258 F.3d 1136, 1145 (9th Cir. 2001).

⁴ 119 Cong. Rec. 25,669 (July 24, 1973)

⁵ H.R. Rep. No. 93-412, at 2 (1973).

⁶ 43 Fed. Reg. 6230, Endangered and Threatened Wildlife and Plants; Determination of Certain Bald Eagle Populations as Endangered or Threatened (Feb. 14, 1978).

⁷ U.S. Fish and Wildlife Service, Monarch Species Status Assessment Report Draft (June 2018)

⁸ On average, species on the candidate list have waited 12 years for protection, and at least 47 species have gone extinct waiting for protection. *See* Puckett et al., Taxa, petitioning agency, and lawsuits affect time spent awaiting listing under the US Endangered Species Act, *Biological Conservation* 201 (2016) 220-229; *see also* Greenwald N et al., 2019. Extinction and the U.S. Endangered Species Act. *PeerJ* 7:e6803 DOI 10.7717/peerj.6803

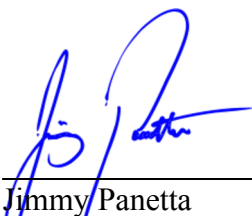
⁹ Executive Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis; Fact Sheet: List of Agency Actions for Review (Jan. 20, 2021), *available at*: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for->

had hoped that this strong signal from the President would result in a more critical and thorough reexamination of the monarch butterfly. Unfortunately, the FWS decided to maintain the status quo. Fortunately, the science is overwhelmingly clear and proves that we cannot wait and we must act now.

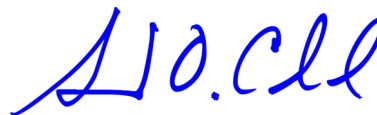
The FWS can intervene and use its emergency authority when it determines that delays in protection will cause “a significant risk to the well-being of a species.”¹⁰ The FWS has used this authority dozens of times in the past, including most recently for the Miami blue butterfly, which was prematurely declared extinct *twice* before finally receiving protection.¹¹ Emergency listing is desperately needed here to stabilize the remaining western monarch population before it is too late. As Secretary, we ask that you overrule the short-sighted decision by the FWS to wait until 2024. As the science has made clear, it is likely that such a delay will be too late for the western monarch butterfly.

Congress intended the laws of the ESA to be used broadly to protect our nation’s wildlife and to give the benefit of the doubt to the species when it comes to their protection.¹² Too many times in the past, delays in providing protection have led to devastating consequences, including numerous species of wildlife and plants going extinct. As members of Congress who are extremely concerned about the population of the western monarch butterflies and care about the cultural and ecological importance that they have across our nation, we urge you to use every tool available to preserve their population. We believe that such protections for the western monarch butterfly are not only necessary for their existence, but also will afford those who come after us the opportunity to celebrate and benefit from butterflies’ spectacular beauty, special migration, and profound role in many ecosystems.

Sincerely,



Jimmy Panetta
Member of Congress



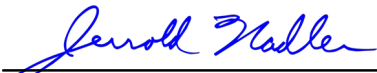
Salud Carbajal
Member of Congress

review/

¹⁰ 16 U.S.C. § 1533(b)(3)(C)(iii).

¹¹ 76 Fed. Reg. 49542, Endangered and Threatened Wildlife and Plants; Emergency Listing of the Miami Blue Butterfly as Endangered (August 10, 2011).

¹² See *Tenn. Valley Auth. v. Hill*, 437 U.S. 153 (1978); *Conner v. Burford*, 836 F.2d 1521 (9th Cir. 1988).



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