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Trump Admin. Failed To Protect Species, Suits Say

By [Clark Mindock](#)

Law360 (January 6, 2021, 6:48 PM EST) -- In the waning days of the Trump administration, the [Center for Biological Diversity](#) is launching a slew of lawsuits alleging that the administration failed to protect dozens of vulnerable species under the Endangered Species Act.

The group is filing a series of formal notices of intent to sue over protections for dozens of species at the tail end of a presidential administration that CBD says has the worst record on endangered species issues since the ESA was passed in 1966. That record includes hundreds of backlogged species that environmentalists say are in critical need of protections, and just 25 species listed for protection in four years — the fewest of any presidential administration, according to the group.

On Wednesday, the center targeted the U.S. [Fish and Wildlife Service](#) for what it said was a failure to designate critical habitat for eight plants in Florida, despite a settlement with the Obama administration that led to those plants' listing in 2017 and 2018. A day earlier, the group had notified the [U.S. Department of the Interior](#) that it plans to sue outgoing Interior Secretary David Bernhardt, alleging that he delayed protections for 11 species that have been identified as warranting that care but have been placed on candidate lists instead.

The group plans to launch an additional challenge this week related to four insect species and a plant, and several more next week. The notices allege listing failures of species in Nevada, Oregon, Delaware and elsewhere.

Noah Greenwald, director for endangered species at CBD, told Law360 Wednesday that the Trump administration's failures come as the planet faces an existential crisis and mass extinction. The suits were filed to mark the failures of the past four years and to send a message to the incoming Biden administration that endangered species need urgent concern and resources, he said.

"The Trump administration only listed 25 species the whole four years, which is the fewest number of any administration since the act was passed," he said. "You combine that poor rate of protecting species with the rollbacks — particularly the [regulations passed in 2019](#) for implementing the Act that just substantially undercut protections for endangered species — and it really does just add up to be the worst record."

An FWS spokesperson told Law360 the agency conducts reviews regularly to determine whether new listings are warranted. On the species identified in CBD's lawsuits, the spokesperson said that the agency plans to undertake a thorough review of "all available data to determine whether to proceed with a proposed listing rule for these candidate species. As a result, we may propose to list the species or conclude that listing is no longer warranted."

"The Service has continually worked to recover our most at-risk species, while improving our regulations to spur greater collaboration in our conservation efforts. We have made these decisions based on obligations under the Endangered Species Act to address higher-priority listing actions," the spokesperson said.

The Tuesday notice focused on 11 species, including the monarch butterfly, a species of tortoise, a chipmunk, clams and mussels, an owl species and others. The Wednesday notice focused on species that the Obama administration agreed to protect after a CBD lawsuit, including at least one native species to the Everglades and a species of crabgrass.

In 2020, CBD filed suit in February against the Trump administration in D.C. district court for allegedly failing to protect 241 species of plant. At that time, the administration had only listed 21 species for protection.

Should the Biden administration act where the Trump administration has not, several industries including big agriculture, home developers, the livestock grazing industry and the oil and gas industry could be affected and face stricter regulatory compliance requirements going forward. The Biden transition team did not immediately respond to a request for comment.