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Congress Calls for Lasting Protections for Migratory Birds

WASHINGTON (July 29, 2021) – Today, Representative Alan Lowenthal (D-CA) joined with Representative Brian Fitzpatrick (R-PA) and 47 original co-sponsors to introduce the Migratory Bird Protection Act to reaffirm long-standing protections for migratory birds against industrial take — that is, unintentional but predictable killing of birds. Bird populations in North America are plummeting—a stunning 3 billion birds have disappeared from the continent since 1970—and federal law is essential to conserving and recovering these populations.

“The MBTA has been a critical tool for bird conservation for over 100 years,” Congressman Lowenthal said. “Democratic and Republican presidential administrations since the 1970s have interpreted and applied the law in a similar way, which has saved countless numbers of birds. Our Migratory Bird Protection Act would prevent future federal executive action that may apply a flawed interpretation to the MBTA, and once and for all reaffirm and formalize all of the MBTA protections. We must prevent future reinterpretations that might let commercial interests off the hook when it comes to killing birds.”

“We must take the necessary steps to protect and conserve migratory bird populations,” Congressman Fitzpatrick said. “We must ensure that longstanding protections for birds are fully maintained while providing greater regulatory certainty. I am proud to join Rep. Lowenthal in introducing the bipartisan Migratory Bird Protection Act, which takes important steps to protect millions of migratory birds.”

The Migratory Bird Treaty Act (MBTA), one of our nation’s first conservation laws, was enacted to implement our international treaty commitments to protect populations of migratory birds. Unfortunately, the Trump administration finalized a regulation that cancelled protections for migratory birds by declaring that the law no longer protects birds from unconstrained incidental take by oil and gas developers and other industries.

“Americans love migratory birds and want to see them protected,” said Jamie Rappaport Clark, president and CEO for Defenders of Wildlife. “Stripping away longstanding protections from birds to buffer unsafe industry practices is irresponsible and reckless. Rep. Lowenthal’s bill puts our nation back on track to support and protect birds for all of us to enjoy and celebrate.”

The Migratory Bird Protection Act ensures durable protections for migratory birds from industrial activities and provides regulatory certainty to responsible developers in managing

incidental take, so long as they follow best management practices to avoid bird deaths. This important and reasonable approach gives industry clear and consistent expectations for protecting birds without jeopardizing our international commitments and conservation legacy.

“Birds have inherent value and are an economic driver along with providing essential services necessary to people, from natural pest control to crop pollination. This Act provides the certainty industry needs while also ensuring birds receive the protections they deserve,” said Jennifer Cipolletti, director of conservation advocacy for American Bird Conservancy.

“Our beloved birds need our care and protection more than ever,” said Noah Greenwald, endangered species director at the Center for Biological Diversity. “Habitat loss and climate change are accelerating rapidly, so it’s urgent that Congress pass this bill and give birds a fighting chance at survival.”

"With over one-third of America's native species at increased risk of extinction and a loss of more than three billion birds in the past half century, now is the time for Congress to act." said Dr. Carol Chambers, President of The Wildlife Society. "Through Congressmen Lowenthal's and Fitzpatrick's leadership, the Migratory Bird Protection Act will provide support for wildlife biologists and managers to work collaboratively towards the proactive conservation successes America is capable of."

On a parallel track, the Biden administration decided to rescind a Trump-era legal memo that justified cutting bird protections and announced a replacement rule recognizing incidental take protections for migratory birds. The Biden administration also formally dropped an appeal of a federal district court ruling that rejected the Trump administration’s attempt to strip protections for birds under the MBTA. However, the near-gutting of the MBTA by the Trump administration and the potential for inconsistent federal court decisions highlight the fragility of migratory bird protections. Congress should now act to assure migratory birds have protections.

“This Act will guarantee bedrock protections for birds and the communities who rely on and support them,” said Katie Umekubo, a senior attorney at NRDC (Natural Resources Defense Council). “It will build upon and modernize a law that has protected both iconic and backyard bird species for over 100 years, right when our feathered friends need it most.”

“We have lost 3 billion birds in North America since 1970 and climate change threatens extinction for two-thirds of bird species. It is critical that we strengthen this baseline protection for birds and that is what this bill will do,” said Sarah Greenberger, senior vice president of conservation policy, National Audubon Society. “Birds are telling us they are in trouble and we are running out of time to act. As Congress looks to build toward America's future it should also help bring birds back.”

“Since 1970, we have lost [3 billion birds](#) in North America – a devastating crisis for biodiversity, wildlife, and all those who enjoy birdwatching. The Migratory Bird Protection Act ensures durable protections for iconic migratory bird species like the little blue heron and wood thrush,” said Jim Murphy, director of legal advocacy for the National Wildlife Federation. “We applaud Congressman Lowenthal’s leadership on this issue and look forward to working with policymakers to save migratory birds.”

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Defenders of Wildlife is dedicated to the protection of all native animals and plants in their natural communities. With nearly 2.2 million members and activists, Defenders of Wildlife is a leading advocate for innovative solutions to safeguard our wildlife heritage for generations to come. For more information, visit Defenders.org/newsroom and follow us on Twitter @Defenders.

American Bird Conservancy is a nonprofit organization dedicated to conserving wild birds and their habitats throughout the Americas. With an emphasis on achieving results and working in partnership, we take on the greatest problems facing birds today, innovating and building on rapid advancements in science to halt extinctions, protect habitats, eliminate threats, and build capacity for bird conservation. Find us on abcbirds.org, Facebook, Instagram, and Twitter (@ABCbirds).

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.7 million members and online activists dedicated to the protection of endangered species and wild places.

The National Audubon Society protects birds and the places they need, today and tomorrow. Audubon works throughout the Americas using science, advocacy, education, and on-the-ground conservation. State programs, nature centers, chapters, and partners give Audubon an unparalleled wingspan that reaches millions of people each year to inform, inspire, and unite diverse communities in conservation action. A nonprofit conservation organization since 1905, Audubon believes in a world in which people and wildlife thrive. Learn more at www.audubon.org and on Facebook, Twitter and Instagram @audubonsociety.

The National Wildlife Federation is America's largest conservation organization, uniting all Americans to ensure wildlife thrive in a rapidly changing world. Follow us on Facebook, Twitter, and Instagram (@NWF)

NRDC (Natural Resources Defense Council) is an international nonprofit environmental organization with more than 3 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Bozeman, MT, and Beijing. Visit us at www.nrdc.org and follow us on Twitter @NRDC.

Founded in 1937, The Wildlife Society (TWS; wildlife.org) and its network of affiliated chapters and sections represent more than 15,000 professional wildlife biologists, managers, and educators dedicated to excellence in wildlife stewardship. TWS' mission is to inspire, empower, and enable wildlife professionals to sustain wildlife populations and habitat through science-based management and conservation.