



December 20, 2021

The Honorable Deborah Haaland
Secretary
U.S. Department of the interior
1849 C Street, NW
Washington, DC 20240

Dr. Jane Lubchenco
Deputy Director for Climate and Environment
Office of Science and Technology Policy
1600 Pennsylvania Ave. NW
Washington, DC 20500

The Honorable Mark Lee Greenblatt
Inspector General
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Martha Williams
Principal Deputy Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20240

Re: Proposed Downlisting of Whooping Cranes – RIN#: 1018-BG51.

Dear Secretary Haaland, Principal Deputy Director Williams, Inspector General Greenblatt, and Deputy Director Dr. Lubchenco:

This letter is written to strongly object to the proposed downlisting of the whooping crane. This letter is submitted on behalf of The Aransas Project (TAP) and requests immediate cessation of this internal regulatory effort identified as RIN#: 1018-BG51. TAP litigated in 2011 in federal court over the deaths of 23 whooping cranes and has continued to monitor various threats since that time. We consider this proposed Fish and Wildlife agenda item an unwelcome threat from an entity that should be our partner in protecting these great birds.

The action complained of herein represents a profound violation of scientific integrity and violates President Biden’s Executive Order 13990 *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, which requires that all federal agencies “be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making.”¹

The Aransas National Wildlife Refuge is the wintering grounds of the only wild self-sustaining population of Whooping Cranes in the world. This coastal refuge is a crown jewel of the national wildlife refuge system, but it too is imperiled by sea-level rise, a fact that the Fish and Wildlife Service recognized a decade ago.² As sea-level rises and more frequent hurricanes occur, the delicate balance of salt and freshwater is put at greater risk, threatening the blue crab, the primary food for whooping cranes. Further, there is a significant risk that the wintering territories in the coastal marsh will be inundated, and that the

¹ Executive Order No. 13990, 86 Fed. Reg. 7037 (Jan. 20, 2021).

² See, USFWS 2011, *Texas: In Face of Climate Change, Coast Is Not Clear for Whooping Cranes* <https://www.fws.gov/news/blog/index.cfm/2011/5/20/Texas-In-Face-of-Climate-Change-Coast-Is-Not-Clear-for-Whooping-Cranes> Last Visited 12/17/2021.

marsh habitat will sluff and disappear. Additionally, global climate change also threatens the primary breeding grounds of the crane in Wood Buffalo National Park as climate change results in drier and warmer conditions on the summer grounds and could have “severe impacts on whooping crane reproduction.”³

The recovery plan for the Whooping Crane states that downlisting to threatened status is not warranted until a second migratory population reaches over 120 individuals for a decade, otherwise, the Texas population must reach over 1000 individuals.⁴ Neither of these criteria have been reached, and the Whooping Crane still remains one of the rarest birds in the world. Why would the Service reduce populations now, and who thought this was a good or even acceptable idea?

We note that there are several alternatives that might trigger a delisting are identified but because the necessary 2nd and 3rd populations have not been established in sufficient numbers to permit any possible delisting, the only available and acceptable alternative for downlisting, Alternative Criterion 1B, requires a population of more than 1000 individual cranes in the wild migratory Whooping Crane population that winters in South Texas and breeds in Canada. Current numerical criteria are not even close to the required number of individual birds and currently numbers slightly over 500 individual birds, and there are significant error factors in that estimate. In fact, the recovery plan expressly states that downlisting is unlikely to be reached before 2035 because the Whooping Crane population’s known slow growth rate and challenges related to reintroducing captive bred populations to the wild.⁵

Such a proposed downlisting of the Whooping Crane is reprehensible and illegal. Here, this proposed reversal of conservation measures for the endangered Whooping Crane, completely disregards climate change relative to the conservation and recovery of controversial threatened and endangered species.

In such adverse circumstances, TAP can only object and protest that these are not innocent errors by the USFWS but are contrived analyses with predetermined outcomes. That is not the way that science should be implemented in the federal government, leading to the violation of EO 13990. Moreover, these are not administrative and ministerial actions devoid of consequence, but rather are symptomatic of deeply embedded decay within the very agency charged by Congress with protecting threatened and endangered species. Normally the processes utilized by the USFWS, decisions to downlist or delist species are made after the gathering of data and analysis utilizing the best available science and working with partner non-governmental organizations with knowledge and expertise. Sadly, the decision to reduce the protections afforded our vulnerable and valuable wildlife by the Endangered Species Act appears to have already been made, but only after justifying the decision by USFWS’s manipulation of the best available science and data to achieve a contrived political outcome.

TAP is familiar with this irresponsible and illegal management of precious natural resources, and we note that the federal courts are there to at least hear our concerns if you will not. We certainly hope

³ Recovery Plan for the Whooping Crane, available at: https://ecos.fws.gov/docs/recovery_plan/070604_v4.pdf Last Visited 12/17/2021.

⁴ Id.

⁵ Ibid. at 38.

that the USFWS does not want to limit public scrutiny, ignore the best available science, and sneak through an indefensible and illegal delisting, not to mention never releasing the required five-year review, until it has already adopted a new rule to weaken protections. This tactic has been used in past attempts to delist wolves and was also used to end protections for Grizzly Bears. Please do not continue to perpetuate these past improper and illegal actions.

Finally, TAP notes that the USFWS frequently complains about their lack of resources, while simultaneously and routinely misusing and wasting resources on indefensible proposals to weaken protections for the very species it is charged with protecting. This regulatory action to downlist the whooping crane is a prime example of such waste and misuse. Moreover, the agency refuses to acknowledge the impact of climate change on these species or for that matter the plans necessary to ensure their survival.

Almost 50 years ago, the US Supreme Court held in Tenn. Valley Authority v. Hill that the Endangered Species Act required the saving of endangered species “whatever the cost.”⁶ Given the gravity and nature of our planet’s unprecedented climate and extinction crisis, the USFWS must undertake every measure within its power to incorporate climate change into recovery plans to halt extinctions.

Accordingly, TAP respectfully requests that you intervene, and order the U.S. Fish and Wildlife Service to rescind the reclassification of the Whooping Crane, RIN# 1018-BG51 from the Office of Information and Regulatory Affairs United agenda and stop wasting precious resources pursuing this downlisting.

Thank you for the attention you afford our concerns.

Sincerely,

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Cc:

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⁶ Tenn. Valley Authority v. Hill, 437 U.S. 153, 184 (1978).