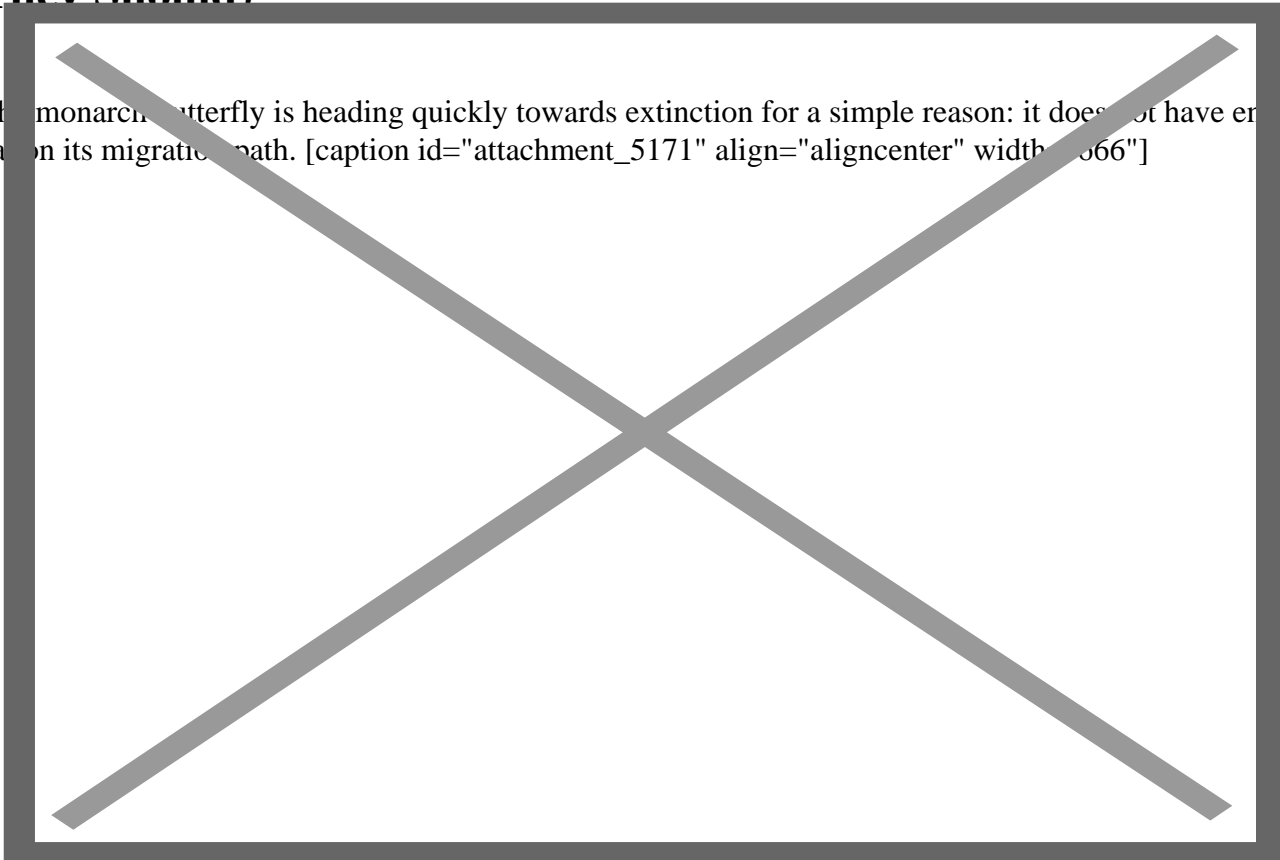


How Developers Can Help Save the Monarch Butterfly (and Why They Should)

The monarch butterfly is heading quickly towards extinction for a simple reason: it does not have enough food to eat on its migratory path. [caption id="attachment_5171" align="aligncenter" width="566"]



A

Monarch Butterfly feeds on orange Butterfly Weed Flowers in the garden.[/caption] Every fourth generation of this remarkable creature undertakes a migration of up to 3,000 miles to warmer climates such as California, Mexico, and the Gulf Coast until it is time to start a new generation in northern ranges. On their long journey they eat only one plant, milkweed, which used to be common and abundant throughout the country. Use of herbicides and elimination of milkweed in landscaping and agricultural fields have undermined the monarch butterfly's food sources. The good news is that, in contrast to many endangered species, whose recovery requires extensive and expensive habitat restoration and preservation, the monarch's path to recovery is relatively straightforward but requires a simple effort of the collective whole throughout the nation: plant milkweed! Milkweed is easy to grow, is relatively drought tolerant once established, and has a beautiful array of flowers that would fit in well in many landscapes. I can personally attest that milkweed can be grown by the most challenged gardener, as I now have six plants flourishing in our yard. Our milkweed plants are also a main attraction for children visiting our house, who like to check up on their black and yellow striped caterpillar friends. Many nurseries are now stocking milkweed suitable for the local climate, but you can also find them online, including through [Annie's Annuals](#), and have plants and seeds shipped directly to you. Why should the development community care about the plight of the monarchs? The U.S. Fish and Wildlife Service just entered

into a binding agreement to decide by June 2019 whether to list the species on the Endangered Species Act. The ramifications of a potential listing of the monarch could be significant for projects of all sizes - from the largest infrastructure project to the smallest residential development. The Endangered Species Act is considered the "bulldog" of the environmental laws. It prohibits any person from committing a "take" of a listed species, which is broadly defined as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." While permits are available for incidental take of a listed species, the permitting process can take months and even years to complete, and often requires costly conservation measures to mitigate for potential impacts to a species. Violations of the statute can result in potential criminal and civil penalties. Of greater concern is the highly-protective injunction standard that tips the balance towards conservation of the species, and which is often used by project opponents to stop controversial projects while a lawsuit challenging the project is pending. Based on the monarch butterflies' extensive range throughout the nation, the possible consequences on the development community of a listing are vast. There is potential habitat in nearly every region of our country, and take of a monarch butterfly could be likely to occur on a broad range of development projects. The challenges that the wind industry have faced along the long migration path of the endangered whooping crane demonstrate how challenging preservation of a migratory species can be. Thus, the development community should join the fight and coordinate efforts with federal, state, and local agencies to encourage the cultivation of milkweed needed to support a thriving monarch population along the migration route. Indeed, a memorandum of understanding was just inked by officials from Minnesota, Iowa, Missouri, Kansas, Oklahoma, Texas, and the federal government to improve the monarch habitat along Interstate 35, and to develop a branding campaign to informally name it the "Monarch Highway." Options for bettering monarch habitat include the use milkweed in landscaping for parks, housing developments, and commercial areas. Developers could also think more creatively, such as raising awareness of the need for milkweed in the agricultural community or offering free milkweed plants in key communities along the migration route for residents interested in cultivating the plants at their homes. The Fish and Wildlife service has a [website](#) with details, photos and information on how developers, individuals and communities can get involved. While such efforts may not eliminate all the threats to the monarch butterfly, they could go a long way in reversing the downward trend of the species to avoid a listing under the Endangered Species Act.

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes.

[View the blog](#)