

February 16, 2021

The Honorable Joe Biden
President of the United States
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Kamala Harris
Vice President of the United States
1800 G Street NW
Washington, DC 20502

Dear Mr. President and Madam Vice President:

We write to you as Bay Area leaders who support protection and restoration of San Francisco Bay's waters and wetlands.

As you take office, we urge your Administration to comply with an order by the U.S. District Court for the Northern District of California to remedy an illegal action by the Trump Administration's Environmental Protection Agency (EPA). To restore federal enforcement of the Clean Water Act (CWA) and protect San Francisco Bay, we ask that you withdraw the EPA's appeal of the district court's decision in *San Francisco Baykeeper et al v. U.S. Environmental Protection Agency* [C 19-05941] and accelerate compliance with the court's order that EPA make a new determination of jurisdiction under the CWA for the Redwood City Salt Ponds.

President Obama's EPA Region 9 scientists and legal counsel completed an exhaustive site investigation and legal review regarding these ponds in late 2016, concluding that the vast majority of the site is jurisdictional wetlands under the federal CWA and is protected by that law. Unfortunately, that jurisdictional determination did not receive final administrative approval before President Trump took office.

The Trump Administration hijacked the jurisdictional determination process, putting politics ahead of science and the law to encourage a private landowner's development of these wetlands in San Francisco Bay. EPA Administrator Andrew Wheeler waived CWA jurisdiction of the site in 2019, leaving the wetlands without that federal protection. In response, the State of California and four environmental organizations sued the EPA for its arbitrary and capricious decision.

In October, the Federal District Court agreed with these plaintiffs, ruling that EPA headquarters misapplied the law and ignored its own agency regulations and Supreme Court decisions. "The ponds themselves ... remain subject to CWA jurisdiction because they are wet," Judge Stewart Alsup wrote. Notwithstanding the court's strong ruling, the Trump Administration filed an appeal on December 2nd. This prompted California Attorney General Xavier Becerra to respond by stating: "The Trump Administration has spent the better part of four years trying to clear a path for industry interests to pollute our waters and damage our environment. Their unlawful attempt to remove protections and fast track development of the Redwood City Salt Ponds is no different. But we have the facts, the science, and the law on our side."

The Trump Administration's actions threaten the health and stability of our ecosystems and water resources. We urge you to uphold federal environmental laws and protect clean water and wetlands by directing the EPA to withdraw its appeal and implement the court's order to provide a legally sound jurisdictional determination.

Thank you very much for your consideration of this request.

Sincerely,

Elected Officials

Josh Becker, State Senator
Nancy Skinner, State Senator
Scott Wiener, State Senator
Marc Berman, State Assemblymember
David Chiu, State Assemblymember
Kevin Mullin, State Assemblymember
Phil Ting, State Assemblymember
David Canepa, San Mateo County Supervisor
Dave Pine, San Mateo County Supervisor
Warren Slocum, San Mateo County Supervisor
John Gioia, Contra Costa County Supervisor
Aaron Peskin, San Francisco County Supervisor
Susan Gorin, Sonoma County Supervisor
Rick DeGolia, Atherton Councilmember
Bill Widmer, Atherton Councilmember
Jesse Arreguin, Mayor, Berkeley
Michael Brownrigg, Burlingame Councilmember
Carlos Romero, Mayor, East Palo Alto
Antonio Lopez, East Palo Alto Councilmember
Lisa Yarbrough-Gauthier, East Palo Alto Councilmember
Drew Combs, Mayor, Menlo Park
Betsy Nash, Vice Mayor, Menlo Park
Ray Mueller, Menlo Park Councilmember
Jen Wolosin, Menlo Park Councilmember
Sally Lieber, Mountain View Councilmember, Former State Assemblymember
Eric Rodriguez, Mayor, San Mateo
Kathrin Sears, Former Marin County Supervisor
Ian Bain, Former Mayor, Redwood City
Shelly Masur, Former Vice Mayor, Redwood City
Janet Borgens, Former Councilmember, Redwood City

Organizations

Acterra	Redwood City Neighbors United
Bay Institute	San Francisco Baykeeper
Center for Biological Diversity	Santa Clara Valley Audubon Society
Citizens Committee to Complete the Refuge	Save The Bay
Fresh Approach	Sequoia Audubon Society
Friends of Bedwell Bayfront Park	Sierra Club Loma Prieta Chapter
Green Foothills	350 Silicon Valley
Greenbelt Alliance	Transform
Marin Audubon Society	

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