



Item No. 18 Town of Atherton

CITY COUNCIL STAFF REPORT – REGULAR AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GEORGE RODERICKS, CITY MANAGER

DATE: JANUARY 20, 2021

SUBJECT: CONSIDERATION OF LETTER TO BIDEN ADMINISTRATION IN SUPPORT OF CLEAN WATER ACT AND PROTECTION OF REDWOOD CITY SALT PONDS

RECOMMENDATION

It is recommended that the City Council consider a letter to the Biden Administration in support of the Clean Water Act protection of the Redwood City Salt Ponds.

BACKGROUND | ANALYSIS

The Mayor requests that the City Council discuss and consider issuance of a letter to the Biden Administration in support of the Clean Water Act and protection of the Redwood City Salt Ponds.

FISCAL IMPACT

None.

POLICY FOCUS

The policy discussion will revolve around the Town's engagement on this issue at the Federal level.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)

ATTACHMENTS

1. Draft correspondence from Save the Bay
2. Email from Save the Bay

DRAFT CORRESPONDENCE FROM SAVE THE BAY

Dear President Biden and Vice President Harris:

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

As you prepare to 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 Alsop 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.

From: George Rodericks grodericks@ci.atherton.ca.us 
Subject: Fwd: Sign on Request: Support Clean Water Act protection of the Redwood City Salt Ponds
Date: January 12, 2021 at 11:06 AM
To:

From: Maryann Tekverk <mtekverk@savesfbay.org>
Sent: Thursday, January 7, 2021 1:20 PM
To: Elizabeth Lewis <elewis@ci.atherton.ca.us>
Subject: RE: Sign on Request: Support Clean Water Act protection of the Redwood City Salt Ponds

[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]

Dear Mayor Lewis,

I wanted to reach back out again, since I sent this at the tail end of last year. Attached please find a letter to President-elect Biden and Vice President-elect Harris, asking the incoming Biden Administration to support protection and restoration of the Redwood City Salt Ponds. **Please reach out if you have further questions, and respond with your name and title, and confirmation by Friday, January 15.**

Thank you for considering this request,

Maryann

Maryann Tekverk
Political & Community Organizer, Save The Bay
Pronouns: she, her
mtekverk@savesfbay.org
510-463-6824
www.saveSFbay.org | [@saveSFbay](https://twitter.com/saveSFbay)

SAVE THE BAY
A Healthy and Resilient Bay for Everyone
Give today, protect the future.

From: Maryann Tekverk
Sent: Tuesday, December 22, 2020 11:34 AM
To: elewis@ci.atherton.ca.us
Subject: Sign on Request: Support Clean Water Act protection of the Redwood City Salt Ponds

Dear Mayor Lewis,

Thank you for your continued efforts to protect and restore the Redwood City Salt Ponds. **We request that you sign on to the attached letter to President-elect Biden and Vice President-elect Harris, asking the incoming Biden Administration to support protection and restoration of the Redwood City Salt Ponds?**

In October 2020, Save The Bay, three co-plaintiffs, and Attorney General Becerra won

the lawsuit ruling that these marshes fall under the protections of the Clean Water Act. The EPA is currently appealing the case. With a new Administration entering the White House we are optimistic that this appeal may be withdrawn. We are urging the Biden Administration to withdraw this appeal and restore federal enforcement of the Clean Water Act.

The letter to President-elect Biden and Vice President-elect Harris is included below. There is a complementary letter being circulated to members of Congress as part of this effort. **Please sign on to the letter below asking Biden's EPA to withdraw the appeal? Please respond with your name and title, and confirmation by December 31.**

Thank you for your consideration,

Maryann Tekverk
Political & Community Organizer, Save The Bay

Letter to the Biden Administration:

Dear President-elect Biden and Vice President-elect Harris:

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

As you prepare to 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,

Dave Pine, San Mateo County Supervisor

Baykeeper
Citizens Committee to Complete the Refuge
Green Foothills
Save The Bay

Maryann Tekverk
Political & Community Organizer, Save The Bay
Pronouns: she, her
mtekverk@savesfbay.org
510-463-6824
www.saveSFbay.org | [@saveSFbay](https://twitter.com/saveSFbay)

SAVE THE BAY
A Healthy and Resilient Bay for Everyone
Give today, protect the future.