

Maxx Phillips (HI Bar No. 10032)  
CENTER FOR BIOLOGICAL DIVERSITY  
1188 Bishop Street, Suite 2412  
Honolulu, HI 96813  
Tel: (808) 284-0007  
mphillips@biologicaldiversity.org

*Attorney for Plaintiffs*

**UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII**

CENTER FOR BIOLOGICAL DIVERSITY  
SURFRIDER FOUNDATION;  
SUSTAINABLE COASTLINES HAWAII,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; ANDREW  
WHEELER, Administrator; MIKE STOKER,  
Region 9 Administrator, United States  
Environmental Protection Agency,

Defendants.

Case No. 1:20-cv-00056

**NOTICE OF VOLUNTARY DISMISSAL  
PURSUANT TO FRCP 41(a)(1)(A)(i);  
ORDER**

**NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

Plaintiffs filed the above captioned case on February 5, 2020, alleging the Environmental Protection Agency (EPA) unlawfully approved Hawaii's lists of impaired waters without evaluating available data on microplastics. 33 U.S.C. § 1313(d); 40 C.F.R. § 130.7(b)(5).

Plaintiffs sought an order compelling EPA to disprove Hawaii's lists of impaired water bodies

Notice of Voluntary Dismissal

*Center for Biological Diversity v. EPA, et al.* 1

and consider available data on plastic pollution, and to identify waters impaired by plastic pollution, as required by Section 303(d) of the Clean Water Act.

Following the commencement of this litigation, on March 30, 2020, EPA withdrew its approval of Hawaii's 2018 impaired waters list, "specifically with respect to the consideration of plastics in Hawaii waterbodies for which Hawaii received data and information." On May 22, 2020, within the 60 days provided under the Clean Water Act, the State of Hawaii assembled and evaluated the readily available data and information regarding plastics. However, based on its review, the state of Hawaii found there to be "insufficient data and assessment methodology to conclude that there is a water quality impairment to Hawaii's waters due to plastics."

On July 10, 2020, EPA approved Hawaii's decision not to list 17 waterbodies but disapproved the State's decision not to list the Kamilo Beach and Tern Island waterbodies because EPA concluded that the existing and readily available data and information for those waterbodies indicate they are impaired by plastic trash. Through that action, EPA identified these two waterbodies for inclusion on Hawaii's 2018 Section 303(d) list. Consistent with EPA regulations at 40 C.F.R. § 130.7(d)(2), EPA issued a public notice seeking comment on these two additions to the 303(d) list.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs files this notice of voluntary dismissal without prejudice. Defendants have not yet filed their answer. No motion for summary judgment has been filed. Fees and costs are not being sought. This notice of dismissal serves to dismiss the above captioned case without a court order.

Respectfully submitted this 28th day of August, 2020.

/s/ Maxx Phillips

Maxx Phillips (HI Bar No. 10032)  
CENTER FOR BIOLOGICAL DIVERSITY  
1188 Bishop Street, Suite 2412  
Honolulu, HI 96813  
Tel: (808) 284-0007  
mphillips@biologicaldiversity.org

*Attorney for Plaintiffs*

APPROVED AS TO FORM AND SO ORDERED:

DATED: Honolulu, Hawaii, September 2, 2020.



Alan C. Kay

Alan C. Kay  
Sr. United States District Judge

*Center for Biological Diversity et al v. U.S. Environmental Protection Agency et al.*, Civ. No. 20-00056 ACK-KJM, Notice of Voluntary Dismissal and Order.