



## LEAGUE OF CONSERVATION VOTERS

June 13, 2017

Chairman Chuck Grassley  
Ranking Member Diane Feinstein  
Senate Judiciary Committee  
United States Senate  
Washington, DC 20510

### **Re: Oppose the judicial nomination of Damien Schiff to the US Court of Federal Claims**

Dear Senator,

The League of Conservation Voters (LCV) works to turn environmental values into national, state and local priorities. Each year, LCV publishes the *National Environmental Scorecard*, which details the voting records of members of Congress on environmental legislation. The *Scorecard* is distributed to LCV members, concerned voters nationwide, and the media.

We urge you to oppose the judicial nomination of Damien Schiff to the US Court of Federal Claims. If confirmed, Schiff will serve a fifteen-year term, and his track record reveals that he is an extreme nominee with bias and disdain for environmental safeguards that protect the air, water, and public health.

Schiff's strong criticism of the Environmental Protection Agency (EPA) and his extreme view that the EPA should compensate property owners for losses in value resulting from the need to comply with new regulations, reveal that he lacks the proper temperament to serve in the judiciary.<sup>1</sup> Schiff also authored an article in 2017 arguing for judicial review reform for environmental decision-making, which would threaten the progress achieved on environmental safeguards.<sup>2</sup> On the Lou Dobbs show Schiff stated that "[the] problem with the [EPA] across the board [is] treating American citizens as if the[y] were not American citizens, [but] as if they were [sic] slaves."<sup>3</sup> Schiff statements are not only egregious but demonstrate prejudice against the EPA.

Schiff has also been critical of the basic safeguards that protect our everyday workforce. Schiff believes the Occupational Safety and Health Act (OSHA) is unconstitutional.<sup>4</sup> If not for OSHA, however, millions of Americans would be exposed to toxic and hazardous work conditions every day. When it comes to our endangered species, Schiff again has expressed viewpoints that reflect

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<sup>1</sup> Schiff, D. (2017, February 09). Environmental Law — A Good Place To Start For Trump To Make America Great Again. Retrieved from <http://www.investors.com/politics/commentary/environmental-law-a-good-target-for-trumps-efforts-to-make-america-great-again/>.

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Supreme Court Agrees To Rule On Obamacare; Unemployment Rate Continue To Increase; ICE Enforcement Policies Are Being Questioned By Officers; College Tuition Fee Up by 1,000 Percent.. (2011, November 24). Retrieved from Lou Dobbs Tonight <http://www.afj.org/wp-content/uploads/2017/05/Schiff-LouDobbs.pdf>.

<sup>4</sup> Schiff, D. M. (2016, January 6). Is OSHA unconstitutional? Retrieved from <https://blog.pacificlegal.org/is-osha-unconstitutional/> Pacific Legal Foundation Liberty Blog.



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hostility to the protections that the Congress has put in place. He supports the prioritization of economic costs over the importance of endangered wildlife.<sup>5</sup>

Schiff's political ideology will blind his perception of litigants in support of environmental safeguards. The US Court of Federal Claims will likely oversee controversial cases related to environmental issues, but his positions and statements on the record reveal a level of bias that makes him unsuitable for the judiciary. As you know, opinions issued by lower court judges are often the final decision. It is important that the Senate Judiciary Committee strongly consider lower court nominees' principles and independence before confirming them. Damien Schiff's statements make it clear that he will not be an independent jurist, and we must protect our judiciary and ensure that extreme nominees are not confirmed.

For the reasons above, LCV strongly urges you to oppose the judicial nomination of Damien Schiff to the US Court of Federal Claims. We will strongly consider including this confirmation vote in the 2017 *Scorecard*. If you need more information, please call my office at (202) 785-8683 and ask to speak with a member of our government relations team.

Sincerely,

Gene Karpinski  
President

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<sup>5</sup> Schiff, D., & Macdonald, J. (2013). Schiff and MacDonald: The Endangered Species Act Turns 40—Hold the Applause. *The Wall Street Journal*. Retrieved from <https://www.wsj.com/articles/schiff-and-macdonald-the-endangered-species-act-turns-408212hold-the-applause-1388186442>.