

News Service
BREAKING NEWS

**FEDERAL JUDGE FINDS FOR ENVIRONMENTAL GROUPS
IN SUIT AGAINST EPA**

Redwood City's Cargill Salt Ponds Are Protected By The Clean Water Act

"This is so much bigger than one site. This decision will help ensure other similar places around the country are also protected. Most importantly, it confirms that politically driven decisions that ignore regulators, honest civil servants, and science will not stand up to scrutiny under our justice system," Joe Cotchett of Cotchett, Pitre & McCarthy.

"The Redwood City salt ponds represent one of the last remaining opportunities in the Bay to restore marshlands and natural habitats that will help protect us against the impacts of global warming," Eric Buescher, counsel for the plaintiffs at Cotchett, Pitre & McCarthy.

"Only Trump's crooked EPA would ignore its own regional office to do the bidding of a corporate bad actor and declare that ponds aren't really water," Sejal Choksi-Chugh, Executive Director at San Francisco Baykeeper

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Redwood City CA---The historic salt ponds in Redwood City, owned by an affiliate of Cargill, Inc., are indeed waters of the United States and are protected by the Clean Water Act, according to a ruling by a federal court in San Francisco. The court ruled that the U.S.

Environmental Protection Agency “misapplied the law” in deciding that San Francisco Bay salt ponds in Redwood City aren’t protected by the Clean Water Act.

The case was brought by Baykeeper, Save the Bay, Green Foothills, and Citizens Committee to Complete the Refuge, who sued over the EPA’s “jurisdictional determination” that the site was not subject to the protections of the Clean Water Act. The environmental groups were represented by Eric Buescher, Nazy Fahimi, and Joe Cotchett of Cotchett, Pitre & McCarthy, and Allison LaPlante and James Saul of the Earthrise Law Center at Lewis and Clark Law School.

The Court held Plaintiffs proved the EPA “misapplied the law” in making its final decision. The court threw out EPA’s 2019 decision that the ponds should not receive federal protection and ordered EPA to make a new determination based on the law. The court also noted that an earlier EPA review concluded in 2016 that the salt ponds are “waters of the The U.S.”

“This is a huge victory for the Bay, and for the federal law that protects clean water, wildlife and people,” said Save The Bay Executive Director David Lewis. “Now Cargill should return these ponds to the public for permanent protection within the San Francisco Bay National Wildlife Refuge.”

As the Court explained: “The ponds themselves ... remain subject to [Clean Water Act] jurisdiction because they are wet (plus they are not uplands). And, they have important interconnections to the Bay.”

“This decision by the court makes it that much harder for Cargill to destroy these restorable wetlands,” said Megan Fluke, Executive Director of Green Foothills. “Cargill's plan to put homes and businesses on the salt ponds has already been rejected by the Redwood City community. Cargill should finally pay attention to what we've been saying for years and allow the salt ponds to be restored to their historic condition as Bay wetlands.”

The Court criticized EPA’s application of the law: “EPA says that the salt pond at issue is controlled by Ninth Circuit appellate precedent, which is the supposed reason for having ignored its own regulations and skipping straight to the caselaw, EPA also says that the issue is unique, has no precedent, and we should defer to its experience in resolving the case. These two points contradict each other. Either there is precedent or there is not. For the reasons set forth below, this order holds that there is precedent and that EPA headquarters misapplied that precedent.”

“With this court decision, we've turned back EPA's attempt to erase long-standing Clean Water Act protections for our Bay Area salt ponds,” said Gail Raabe, Co-Chair for Citizens Committee to Complete the Refuge. “This is a critical win for the wildlife and health of San Francisco Bay.”

“Only Trump’s crooked EPA would ignore its own regional office to do the bidding of a corporate bad actor and declare that ponds aren’t really water,” said Sejal Choksi-Chugh, the Executive Director at San Francisco Baykeeper. “The South Bay’s salt ponds are in fact wet and very much connected to the Bay -- not dry land as bizarrely claimed by the

administration. This ruling is a big legal win for common sense and for San Francisco Bay. Cargill's irresponsible development proposals will now and in the future have to comply with the Clean Water Act and protect the Bay and local residents.”

“The Redwood City salt ponds represent one of the last remaining opportunities in the Bay to restore marshlands and natural habitats that will help protect us against the impacts of global warming,” said Eric Buescher, counsel for the plaintiffs at Cotchett, Pitre & McCarthy. “Ensuring the owner complies with the Clean Water Act will help to achieve that ultimate goal.”

“This is so much bigger than one site. This decision will help ensure other similar places around the country are also protected. Most importantly, it confirms that politically driven decisions that ignore regulators, honest civil servants, and science will not stand up to scrutiny under our justice system,” said Joe Cotchett of Cotchett, Pitre & McCarthy.

“Yesterday’s ruling makes it clear that this area is protected by the Clean Water Act,” said Allison LaPlante, the Co-Director of Earthrise Law Center, one of the attorneys for the plaintiffs in the suit. “That means Cargill’s future development of the salt ponds will be severely restricted by Clean Water Act safeguards and this will go a long way toward protecting the Bay.”

The salt ponds have been owned and operated by Cargill, Inc. and its affiliates since 1978. They constitute one of the last remaining undeveloped areas along the San Francisco Bay’s shoreline. For over a decade, Cargill and its developer partner DMB Associates have sought to build on the Salt Ponds. In 2012, the companies withdrew a proposal to build over 12,000 homes and thousands of square feet of commercial buildings on the ponds due to intense opposition from the local community, led by Save The Bay and many partner organizations. Cargill had intervened in the action on the side of the EPA.

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