

Greenaction for Health and Environmental Justice

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Greenaction Files Lawsuit Against the Navy & USEPA to Require Proper Cleanup of Radiological Contamination at Hunters Point Naval Shipyard Superfund Site in Bayview Hunters Point, San Francisco, California

Environmental Justice Group Takes Legal Action to Protect Residents of Bayview Hunters Point and Communities around San Francisco Bay

San Francisco, CA – On Friday, June 28, 2024, Greenaction for Health and Environmental Justice and Bayview Hunters Point community members announced the filing of a lawsuit against the United States Navy and United States Environmental Protection Agency over the inadequate and incomplete cleanup of contamination at the notorious Hunters Point Naval Shipyard Superfund Site in the Bayview Hunters Point neighborhood of San Francisco, California.

The suit primarily concerns radioactive contamination at the Shipyard, which is slated for development into a mini city with more than 10,000 residences. In the early 1950s, the Navy used the Shipyard to decontaminate 79 ships contaminated with radiation from nuclear weapons tests in the South Pacific known as “Operation Crossroads.” The Navy also operated a once-secret radiological laboratory at the Shipyard. The Navy’s reckless practices resulted in radiation and toxic contamination to be spread throughout the Shipyard. The Shipyard was placed on the federal National Priorities List/Superfund in 1989 by USEPA.

The suit charges the agencies are violating the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the law governing Superfund cleanups. The lawsuit alleges that the Navy has reneged on its agreement to retest 100% of the fraudulent remediation done by its former radiological contractor, Tetra Tech EC, Inc. Navy personnel first suspected Tetra Tech of fraud in 2012, when they discovered 36 samples taken after remediation was “completed,” that had a different radiological “fingerprint” than earlier samples from the same location. But instead of investigating, the Navy let Tetra Tech EC investigate itself!

Whistleblowers signed declarations under oath in 2017 exposing Tetra Tech EC’s fraudulent testing, including false scans of radioactively contaminated soil and buildings. The Navy continued to defend the fraudulent data until 2018, when federal and state regulators released a review of the data finding it was wholly unreliable due to fraud and significant quality assurance deficiencies, and it all had to be discarded.

The Navy proposed and EPA agreed, over strenuous objection by Greenaction and residents, to a retesting plan where only one-third of Tetra Tech EC's soil remediation would be resampled. However, under the agreement, if any contamination was found during the one-third testing, that would trigger 100% retesting.

Retesting found contamination three years ago, but the Navy has not honored its promise to perform 100% retesting. In 2021, the Navy found 23 soil samples from nine separate locations in the Shipyard's Parcel G that exceeded the cleanup goal for Strontium-90. In 2023, the Navy also discovered two radioactive objects, a deck marker and a glass shard, during retesting of two other parcels. Yet, the Navy refuses to live up to its retesting agreement.

"Our community is sick and tired of the Navy and USEPA ignoring our demands for full retesting and a full cleanup of all the toxic and radioactive waste at the Hunters Point Shipyard," said Leaotis Martin, a long time Bayview Hunters Point resident, and a member of Greenaction. "Too many people have gotten sick and died from pollution, so I am glad Greenaction is taking legal action to force our government to do their job and protect us!"

The suit also alleges the Navy violated the statutory timelines set forth in CERCLA's Five Year Review requirements that mandate the Navy publish reviews "not less than every five (5) years," certifying that the cleanup protects human health and the environment. However, the suit alleges, the Navy's most recent Five Year Review, its *Fourth*, failed to assure the remedies protect human health, unlawfully deferring that determination for five years, until the next Five Year Review, the *Fifth*.

The lawsuit also challenges the failure to properly assess the threats that sea level rise and groundwater rise from climate change pose to the cleanup's continuing protectiveness, particularly in the Shipyard's Parcel E-2, a former industrial landfill where the Navy is leaving residual contamination by the shoreline of San Francisco Bay.

The lawsuit also alleges that the Navy has violated the law throughout the cleanup, including by failing to properly characterize the full vertical and horizontal extent of contamination on the Shipyard. The Navy proposed, and EPA approved unlawful, unprotective cleanup goals in 2006, which the Navy has failed to update in the 18 years since, despite a legal obligation to do so.

Bradley Angel, Greenaction's Executive Director, said, "The Navy and EPA's refusal to fully retest the Shipyard for contamination, and their refusal to conduct a full cleanup of all the contamination, endangers the health of residents of Bayview Hunters Point and other shoreline communities. Their reckless plan to leave large amounts of toxic and radioactive waste buried at the shoreline of San Francisco Bay where rising sea levels and rising groundwater will flood and spread the contamination into neighborhoods and the Bay is unacceptable."

Greenaction is suing EPA because that federal agency has a legal duty to enforce the *Federal Facilities Agreement*, its cleanup agreement with the Navy and the State of California but has failed to do so.

Among the remedies Greenaction’s suit seeks is a court order requiring: 100% retesting of the work done by Tetra Tech EC; publication of all future Five Year Reviews within the statutory deadline; requiring that the reviews properly and factually certify that the remedies protect human health and the environment; updating the radiological cleanup goals using current toxicity data and EPA’s approved methods for calculating risk to human health; and using the latest scientific projections on sea level and groundwater rise when determining the adequacy of “cleanup plans.”

Greenaction for Health and Environmental Justice is a multiracial grassroots organization founded and led by local leaders from low-income and working-class urban, rural, and Indigenous communities. Its mission is to fight environmental racism and injustice and build a clean, healthy, and just future for all. Greenaction has been involved in health and environmental justice advocacy in Bayview Hunters Point since it was founded in 1997. This community of color continues to be negatively and disproportionately impacted by pollution, gentrification, health disparities, and other forms of environmental, social, and economic injustice.

Berkeley Law’s **Environmental Law Clinic** represents **Greenaction** in this action. The Clinic tackles critical environmental justice and health issues, while providing students with hands-on experience representing underrepresented clients with serious environmental problems. ELC’s tools include litigation, agency practice, legislative advocacy, and policy analysis. Clinic projects reduce human exposure to pollution, toxic chemicals, and radiation; promote racial and economic equity in environmental policy; and increase access to nature for all. The clinic aims to educate students to be creative, effective, culturally competent lawyers; to make an environmental difference; and to address unmet legal needs.