

Appeals court says environmental groups can sue to stop Okinawa expansion

By Ray Downs | Aug. 21, 2017 at 8:57 PM

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MV-22B Osprey are seen at the U.S. Marine Corps Air Station Futenma in Ginowan, Okinawa, Japan on June 17, 2016. Environmental groups said the expansion of the U.S. military's base in Okinawa poses a threat to the environment and threatens extinction of the dugong, an animal that resembles a manatee. File Photo by Keizo Mori/UPI | License Photo

endangered species that resembles a manatee, after a U.S. court said Monday that environmental groups can the U.S. government for potential environmental threats in foreign countries.

The 9th U.S. Circuit Court of Appeals in San Francisco ruled that the Center for Biological Diversity, Earthjustice, as well as Japanese environmental groups and activists, have the legal right to pursue its lawsuit against the Defense Department to require it to consider the threats to the dugong.

The lawsuit had been dismissed in 2015 by U.S. District Judge Edward Chen in San Francisco. But Monday's had been dismissed by a lower court, but the 9th Circuit overruled that decision and will send the lawsuit back to Chen to move forward.

"The court today affirmed the right to sue to prevent the U.S. government from taking action that might harm an endangered species of special importance to people in another country without giving serious consideration to the possible effects of its actions," said Martin Wagner, managing attorney of Earthjustice's International Program in a [press release](#). "The law is intended to respect the cultural values of the Japanese people, and requires the Defense Department to make every effort to understand and minimize the effects of this project on the dugong. Today's decision affirms the right to ask the courts to ensure that the U.S. government complies with this law."

Takuma Higashionna, a scuba-diving guide in Okinawa who is a plaintiff in the lawsuit, praised the decision.

"Our folktales tell us that gods from Niraikanai [afar] come to our islands riding on the backs of dugongs and the dugongs ensure the abundance of food from the sea," he said. "Today, leaving their feeding trails in the construction site, I believe, our dugongs are warning us that this sea will no longer provide us with such abundance if the base is constructed. The U.S. government must realize that the Okinawa dugong is a treasure for Okinawa and for the world."

U.S. government attorneys argued that American courts shouldn't be the place to decide U.S. military construction in other countries.

Back in March, when attorneys argued the case in appellate court, Department of Justice attorney Mark Haag said "the court is not well-equipped to determine what is in the public interest when the government of Japan is deciding what's in its interest for a project on its sovereign territory, and which it is paying for itself pursuant to a treaty."

According to [Courthouse News](#), Ninth Circuit Judge Paul Watford chuckled at the argument.

"OK, yeah. I hear you," Watford said. "That's your position."

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