

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**JEFFREY MEMMER, GILBERT EFFINGER, LARRY
GOEBEL, SUSAN GOEBEL, OWEN HALPENY,
JOSEPH JENKINS, MICHAEL MARTIN, RITA
MARTIN, MCDONALD FAMILY FARMS OF
EVANSVILLE, INC., REIBEL FARMS, INC., JAMES
SCHMIDT, ROBIN SCHMIDT,**
Plaintiffs-Appellants

v.

UNITED STATES,
Defendant-Cross-Appellant

2021-2133, 2021-2220

Appeals from the United States Court of Federal
Claims in No. 1:14-cv-00135-MMS, Senior Judge Margaret
M. Sweeney.

ON PETITION FOR REHEARING EN BANC

Before MOORE, *Chief Judge*, NEWMAN, LOURIE, SCHALL¹,
DYK, PROST, REYNA, TARANTO, CHEN, HUGHES, STOLL,
CUNNINGHAM, and STARK, *Circuit Judges*.

¹ Circuit Judge Schall participated only in the deci-
sion on the petition for panel rehearing.

PER CURIAM.

O R D E R

The United States filed a petition for rehearing en banc. A response to the petition was invited by the court and filed by Jeffrey Memmer, Gilbert Effinger, Larry Goebel, Susan Goebel, Owen Halpeny, Joseph Jenkins, Michael Martin, Rita Martin, McDonald Family Farms of Evansville, Inc., Reibel Farms, Inc., James Schmidt, and Robin Schmidt.

Cato Institute, James W. Ely, Jr., National Association of Reversionary Property Owners, Owners' Counsel of America, Reason Foundation, and Southeastern Legal Foundation requested leave to file a brief as amici curiae which the court granted.

The petition was first referred as a petition for rehearing to the panel that heard the appeal, and thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

The mandate of the court will issue March 21, 2023.

FOR THE COURT

March 14, 2023

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court