

CITIZENS AND ARMY SETTLE LAWSUIT

Malama Makua, represented by Earthjustice, and the US Army settled a lawsuit to compel the Army's compliance with the National Environmental Policy Act for training and related activities at Makua Military Reservation on O`ahu.



SEPTEMBER 27, 1999

O`AHU, HI — Today, Malama Makua, represented by Earthjustice Legal Defense Fund, and the U.S. Army settled a lawsuit filed in October 1998 to compel the Army's compliance with the National Environmental Policy Act (NEPA) for training and related activities at Makua Military Reservation (MMR) on O`ahu. NEPA requires federal agencies like the Army to take a hard look at potential environmental impacts before taking actions that might cause significant environmental harm. Under today's settlement, the Army agreed that it will not conduct any training at MMR until it first completes a document that assesses comprehensively the environmental impacts of all training-related activities at MMR.

"This settlement is a major victory for the Wai`anae community, which has said for years that the military's training at Makua Military Reservation has a significant impact on the people, the land, and the resources at Makua," said Sparky Rodrigues, president of Malama Makua. "We are encouraged that the Army is finally going to follow the law, but we will also be watching to make sure that the studies are adequate and that the community is actively involved."

Under NEPA, federal agencies must prepare an environmental impact statement (EIS) for any major federal action significantly affecting the human environment. An EIS is a detailed document that must discuss, among other things, the environmental impacts of the proposed federal action (including any ecological,

aesthetic, historic, cultural, economic, social and health effects, whether direct or indirect) and any alternatives to the proposed action. If an agency is unsure whether the effects of its actions will be "significant," it may first prepare an environmental assessment (EA) to help make that determination.

"Given the biological and cultural riches that are threatened by Army training at Makua, an EIS is clearly in order and doing one off the bat would be the best use of taxpayer money," said David Henkin, staff attorney with Earthjustice Legal Defense Fund, who represents Malama Makua. "If, nonetheless, the Army decides to begin the NEPA process with an EA, we will be vigilant to ensure that the Army takes a hard look at its activities at MMR and gives the community the information it deserves about all environmental, economic, and social impacts."

No training has taken place at MMR since September 1998 when, in response to a letter from Malama Makua indicating its intent to sue, the Army resumed consultations with the Service under the federal Endangered Species Act. The area affected by training at MMR provides habitat for over 30 endangered plants, the `elepaio bird (a proposed endangered species), the endangered pūpū kani oe (O`ahu tree snail), and dozens of additional Hawaiian plants and animals. Military training causes fires and introduces alien plants and animals that pose significant threats to native species and their habitat.

"This settlement is the culmination of years of effort by the Wai`anae community to care for the land and resources at Makua," said Roger Furrer, Makaha farmer and member of Malama Makua. "We look forward to working with the Army to help build respect for this very special place."

Fires from training and controlled burns, unexploded ordnance, military transport along Farrington Highway, smoke, and noise threaten public health, safety, and well-being. Erosion from maneuvers and fires threaten cultural sites and nearshore water quality. Heavy metals and other pollutants remain in the soil from decades of hazardous waste disposal and live-fire training.

Malama Makua is a non-profit, unincorporated, community organization based on the Wai`anae Coast of O`ahu. Formed in 1992 to oppose the Army's open burn/open detonation permit application to the EPA, Malama Makua has continued to monitor military activities at MMR and has participated in a number of community initiatives to care for the land and resources at Makua.

Earthjustice Legal Defense Fund (formerly Sierra Club Legal Defense Fund) is a non-profit, public-interest, environmental law firm. The Mid-Pacific office, which opened in Honolulu in 1988, has represented dozens of environmental, native Hawaiian, and community organizations in litigation and administrative proceedings.

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Legal Case

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