



Media Release

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“Malama na Koa”

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COURT RULING ON MAKUA MILITARY RESERVATION

SCHOFIELD BARRACKS, Hawaii—On October 27, the Hawaii District Court released its ruling on cross motions for summary judgment in the case of Mâlama Mâkua vs. Robert Gates, Secretary of Defense et al.

The issue before the court was whether the Army's subsurface archaeological and marine resources studies complied with the provisions of the 2001 and 2007 settlement agreements. Both parties filed motions for summary judgment on these two remaining claims.

The Court made the following rulings:

With respect to the subsurface survey claim, summary judgment was granted in part to each party. The Court found that the settlement agreements do not require the Army to conduct any particular type of survey, and that the Army's survey of those areas was sufficiently meaningful to satisfy its obligations. The court found that “to the extent the Army failed to conduct any subsurface survey of Areas A to F, the Army violated its agreement to survey ‘all areas’ of the Company Combined Arms Assault Course. However, to the extent Mâlama Mâkua seeks a better subsurface survey of Areas 1 to 3, summary judgment is granted in favor of the Army, as the settlement agreements do not require the Army to conduct any particular type of survey and the Army's survey of those areas is sufficiently meaningful to satisfy its obligations.”

On Mâlama Mâkua's claim that the Army violated its marine resource survey obligations, summary judgment was granted in part to each party. Summary judgment was granted in favor of the Army with respect to the 2001 settlement agreement, and on Mâlama Mâkua's claim that the general procedures used in the marine resource survey were deficient because “the settlement agreements did not require any particular marine resource survey; they required only that such a survey be done.” Summary judgment was granted in favor of Mâlama Mâkua on its claim that the Army's survey did not test background contamination of limu, and it did not determine whether the arsenic detected was harmful to human health. “On the remaining issues raised by the motions, summary judgment was denied to both parties, given the numerous questions of fact surrounding the Army's obligation to test marine resources on which area residents rely for subsistence.”

The U.S. Army will abide by the Court's order and carry on its responsibility to serve as a good steward of the natural environment. The Army continues to demonstrate that commitment by investing millions of dollars annually in programs that enable us to minimize, and in some cases eliminate, the effects of our operations on the environment, while carrying out our ongoing national defense mission.