

Link To Saipan Case?

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U.S. PACE Injunction

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Decision Is Explained

A legal memorandum explaining U.S. Federal Court Judge Samuel P. King's reasons for invoking a preliminary injunction to halt U.S. Air Force Cratering testing on Eniwetok Atoll in the Marshall islands has been filed in U.S. District Court in Honolulu.

In his decision, King placed one more check on Air Force and U.S. Department of Defense plans to conduct Pacific Cratering Experiments (PACE) on the atoll.

Last October, the Air Force was enjoined from detonating high explosive non-nuclear charges on the atoll as a result of a suit brought by the people of Eniwetok.

At that time, the suit for a preliminary injunction alleged the defendants had not complied with the provisions of the National Environmental Policy Act of 1969. The U.S. government agreed to prepare a new environmental impact statement.

With the actual cratering experiment stopped, King then ruled that core drilling and seismic testing were not separate from PACE but a part of that program and placed an injunction over any further drilling or seismic testing.

He took jurisdiction over the case of the Eniwetok people and found that the terms of the National Environmental

Protection Act were not limited to just the 50 states. *m*

Though federal legislation is not automatically applicable to the Trust Territory King found that the terms of NEPA apply.

The federal court's application of NEPA in the Eniwetok case has significance to both the people of Eniwetok and the Saipanese plaintiffs requesting the same federal court to issue an injunction against construction of a Continental Airlines hotel at Micro-Beach on Saipan. Theodore Mitchell said Wednesday. Mitchell is director of Micronesian Legal Services Corporation.

"We asked the court concerning Eniwetok, to rule that NEPA applied to Eniwetok and the Air Force project," Mitchell said, "but the judge went one step farther and ruled NEPA applicable to the entire Trust Territory. This ruling greatly strengthens our Continental suit."

King's memorandum read, "NEPA is framed in expansive language that clearly evidences a concern for all persons subject to federal action which has a major impact on their environment—not merely U.S. citizens in the 50 states."

He cited the legislation's author to support his application of NEPA to the TT as well as many suits. "An environmental policy is a policy for people. Its primary concern is with man and his future," he said.

King ruled, "There is no doubt that the Eniwetokese have such a personal stake in the outcome of the present litigation."