New Scientist's blog, Short Sharp Science, reports that repairs on the proton-smashing Large Hadron Collider at Europe's CERN may be complete by September.

What's the environmental law connection? You might recall that before the LHC was briefly fired up in September 2008 (it only worked for 9 days before crashing), a lawsuit was filed in the federal district court in Hawaii to block it. The claim? That an EIS was required under NEPA because the United States had contributed some $531 million to the $5+ billion project, which might significantly affect the quality of the human environment by (no kidding) creating a black hole that could swallow the world.

The district court tossed that suit. Because the U.S. contributed less than 10% of the cost and had no role in decisions about operation of the LHC, the court ruled that there was no "major federal action" under NEPA. That decision has been appealed to the Ninth Circuit, where the case is in the briefing stage. The narrow legal issue — under what circumstances does federal participation in a mixed project trigger NEPA obligations — is an interesting one that comes up in a variety of contexts and has no clear answer. The district court's ruling is consistent with Ninth Circuit law, which looks to the relative amount of federal funding and the extent of federal funding and control. See, e.g., Ka Makani 'O Kohala Ohana Inc. v. Dept. of Water Supply, 295 F.3d 955 (9th Cir. 2002).

Of course, what the plaintiffs really want is to stop the project until someone proves to their satisfaction that it can't possibly destroy the earth. NEPA doesn't have that kind of bite. As the Supreme Court has said, "NEPA merely prohibits uninformed — rather than unwise — agency action." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350-51 (1989). Although no EIS has been prepared, decisions about the LHC have not been uninformed, at least with respect to the risks of producing planet-swallowing black holes. The media attention garnered by the plaintiffs' doomsday predictions (and their lawsuit) brought the obscure project to the attention of millions, and forced CERN to prepare a more in-depth report on the risks and have that report reviewed by a panel of science advisors. There is now a strong and very public scientific consensus that the collisions the LHC could produce at maximum power pose no risk of producing earth-destroying products.

That's not to say that the potential benefits of the collider, which according to Short Sharp Science "consumes as much electrical power as all the households in the

region around Geneva," outweigh either its economic or environmental costs. Just that the horror-film scenario isn't worth losing sleep over.