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Wastewater ruling set city on a better course

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If there had to be a court judgment against the city in its ongoing struggles to bring its sewage treatment system up to par — and, in this case, such a ruling seemed inevitable — then the order issued last week by U.S. District Judge David Ezra represents the best outcome possible.

Ezra found that Honolulu's delays in building a disinfection unit at the Sand Island sewage treatment plant and a sewage pump station resulted in the bulk of the city's 4,000-plus violations of its federal wastewater permit.

Sierra Club, Hawai'i Thousand Friends and Our Children's Earth Foundation filed the suit three years ago, and now the case moves to a penalty phase.

That's where the good news comes in: The order will not exact fines out of the city coffers, and instead calls for environmental projects that would bring the city into compliance.

Federal Magistrate Judge Kevin Chang will oversee the meetings between the plaintiffs' and city attorneys, aimed at enforcing progress on improvements that would result in lower bacteria counts at discharge points and better water quality, improvements the community can applaud.

This approach, proposed by the environmentalists' lawyers and endorsed by Ezra, has been used in other jurisdictions, for the same good reasons that apply here. Revenue from fines ordered in such federal cases end up in the U.S. Treasury, and don't produce any results locally.

By contrast, an order to "defer civil penalties in favor of locally beneficial environmental projects" seems the more direct route toward achieving what we all need: better protection of the environment.

Deferred sewer-system maintenance throughout the 1990s brought the city to its current situation, and the Environmental Protection Agency secured a consent decree demanding sewer improvements here in 1995.

The 2004 lawsuit, attorneys said, was filed to reinforce the consent decree, and this year the EPA moved to force upgrading to secondary treatment at Sand Island.

City officials sought to renew an exemption on the upgrade, but it seems unlikely federal authorities will yield.

In all these legal cases, the more prudent course of action would be to agree on a timetable for improvements, one negotiated with the city's budgetary constraints in mind.

Officials themselves complain that fighting these lawsuits has cost the city millions that could have been spent on improvements.

At this point it would be wise to stop the legal fighting and instead negotiate a plan for improvements that will protect the environment well into the future.

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