



August 20, 2008

Judge finds Honolulu liable for 297 violations in sewage spills

Ruling may bring fines for multiple breaches of Clean Water Act

BY PETER BOYLAN
Advertiser Staff Writer

A federal judge has found the city liable for 297 violations of the federal Clean Water Act for discharging millions of gallons of sewage into streets, streams, homes and waterways over nine years.

U.S. District Judge David A. Ezra's order covers spills at the Sand Island Wastewater Treatment Plant and the Honouliuli Wastewater Treatment Plant, as well as the city's islandwide collection system.

The suit was filed against the city in 2004 by the Sierra Club, Hawaii's Thousand Friends and Our Children's Earth Foundation.

The judge's order was filed Monday. The case now moves to a penalty phase.

The city did not respond to several requests seeking comment on Ezra's ruling.

"It's something we have been working on for a while," said Jeff Mikulina, executive director of Sierra Club Hawai'i. "It's frustrating the city has been fighting this lawsuit against the citizens and now Judge Ezra had made it clear that the city is culpable for these violations.

"We hope to inspire more action to get the system to 21st-century standards."

The Clean Water Act authorizes fines of up to \$32,500 per violation, which could total millions of dollars in fines that would go to the U.S. Treasury. But the environmental groups have told Ezra the money would be better spent fixing the problem and funding local environmental restoration projects, according to a statement released by the three groups.

The federal Environmental Protection Agency said it is already working with the city to remedy violations caused by sewage spills.

"We at EPA took action in response to the (2006) Ala Wai spill by working with the city and county to address vulnerabilities that led to the Waikiki sewage spill," said Dean Higuchi, the EPA's Hawai'i-Pacific press officer. "The agreement results in measures to prevent catastrophic spills from the city's most vulnerable sewage lines."

Donna Wong, executive director of Hawaii's Thousand Friends, said in a statement that she hopes the city will address the issue now that a judge has said there are clear violations of the Clean Water Act.

"For years, we have been trying to convince the city to listen to our concerns and take the steps necessary to fix the aging sewage infrastructure," she said.

Mike Costa, spokesman for Our Children's Earth Foundation, said in a statement that the "ruling

reinforces the critical role that citizen groups play as watchdogs in enforcing the Clean Water Act.

"Government regulators cannot be everywhere and do everything," Costa said.

4,013 prior violations

Ezra's order comes 10 months after he ruled the city violated a federal wastewater discharge permit 4,013 times by failing to meet construction schedules for two key projects and exceeding bacteria limits.

Four years of delays in building a disinfection unit at the Sand Island sewage treatment plant resulted in 1,578 of the violations, one for every day the project was late, Ezra found in October.

Delays in building a sewage pump station on Hart Street resulted in 832 violations, Ezra ruled. Also, discharged effluent exceeded limits for enterococcus bacteria 1,603 times.

The city has committed more than \$1 billion to upgrade thousands of miles of aging sewer lines.

The 48 million-gallon Ala Wai spill in March 2006 led to \$300 million in repairs ordered by the EPA.

funds for repairs

O'ahu residents are paying for the repairs through increased sewer fees. The fees jumped from an average of \$41 a month in 2005 to \$56.81 now, and are expected to rise to \$79.10 by 2010.

Before the Ala Wai spill, the city knew deteriorating sewer lines were an issue but there was no money to fix them because sewer fees had not risen since 1993.

In 2005, Mayor Mufi Hannemann proposed a six-year schedule of repairs financed by the increased sewer fees.

He also allocated \$241 million for fiscal 2006 — then half of the city's construction budget — for sewer work. He also doubled the money for the wastewater improvement and repair program for that year, from \$120 million to \$240 million.

The sewer repair program increased to \$355 million in 2007 with another \$351 million appropriated for fiscal 2008.

The three environmental groups are not satisfied with Hannemann's plan and are seeking an expedited repair and upgrade schedule.

"There has been a history of neglect by the city," Mikulina said. "It predates this mayor and the previous mayor. There is a long history of neglect."
