

NEWS RELEASE

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Honolulu City and County Liable for Thousands of Clean Water Act Violations

Honolulu, Hawai`i – On Monday, August 18, 2008, United States District Court Judge David Ezra found the City and County of Honolulu liable for 297 violations of the federal Clean Water Act for sewage spills from the City’s sewer collection systems and Wastewater Treatment Plants at Sand Island, Honouliuli, and elsewhere on Oahu.

The Court’s Order granting summary judgment is the second ruling against the City for violations of the Clean Water Act. On October 30, 2007, Judge Ezra found the City responsible for 2,653 violations for its failure to upgrade and maintain its Sand Island treatment plant as required by law (exceeding Environmental Protection Agency enterococcus standards; and failing to complete and operate the Sand Island Disinfection Facility on schedule). The Court also indicated the City’s discharges violated EPA chlordane and dieldrin standards, but reserved judgment on the final count for a later date).

The 2004 citizen suit brought by the Sierra Club, Hawaii Thousand Friends, and Our Children’s Earth Foundation is one of three lawsuits (1994, 2004, and 2007) before Judge Ezra regarding the City’s failure to manage its waste water treatment systems properly.

The spills in this case (from 1999 to 2008) involve the discharge of millions of gallons of raw sewage into public streets, streams, channels, waterways, and even private homes.

“We will continue to press the City to take the actions needed to comply with the Clean Water Act and keep our ocean waters clean and safe for the citizens of O’ahu and its visitors,” said Jeff Mikulina, Executive Director, Sierra Club, Hawai’i Chapter.

Donna Wong, Executive Director, Hawai’i’s Thousand Friends, agreed. “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. We appreciate the court’s careful attention to this matter. We hope the City will now step up its efforts and take our concerns into consideration.”

Mike Costa, spokesperson for Our Children’s Earth Foundation, noted, “[t]his 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. They are sometimes slow to act. Citizens are the eyes and ears that jump-start government to action.”

The latest ruling from Judge Ezra follows his February 26, 2008 decision reinstating the citizens' claims against the City for sewage spills. In a detailed and carefully reasoned order, Judge Ezra reconsidered his earlier ruling dismissing these claims and took the important step of finding that where the State or the federal government failed to diligently act to stop these spills, citizen groups could seek redress on their own.

The next step will be for the Court to determine what remedies to impose on the City, including upgrades to the sewage treatment system. The Clean Water Act authorizes injunctive relief and fines up to \$32,500 per violation. While the Court could impose multi-million dollar fines against the City (which under the Clean Water Act would go to the United States Treasury), the environmental groups have already indicated to the Court that the money would be better spent on fixing the problem here and on funding locally beneficial environmental restoration projects in lieu of such fines.

The Court's August 18 order can be viewed online at www.hi.sierraclub.org/order_msj_aug08.pdf

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Founded in 1892, the Sierra Club is the nation's oldest and largest grassroots environmental organization, with over 700,000 members across the country. The Sierra Club actively promotes conservation by influencing public policy through grassroots activism, public education, lobbying and litigation. www.sierraclub.org

Since 1980, Hawai'i's Thousand Friends has advocated for protection of the environment, cultural resources, and human health and responsible land use planning in Hawai'i, bringing several prior lawsuits against the City and County of Honolulu for violations of the Clean Water Act at the Sand Island, Honouliuli, and Kailua Wastewater Treatment Plants. www.hawaii1000friends.org

Founded in 1998, Our Children's Earth Foundation is a nonprofit organization dedicated to protecting the public, especially children, from the health impacts of pollution. Through a combined strategy of litigation, education and advocacy, OCE empowers individuals, families and local communities to participate in decisions that impact environmental quality. www.ocefoundation.org