



Netters at Laniakea Beach leave shore to lay their net.

■ For many years the Hawai'i State Department of Land and Natural Resources (DLNR) has been closing areas to fishing and designating them as Marine Protected Areas, or MPAs. The current DLNR administration is, quite correctly, a proponent of such practices. In addition, it recently introduced a community action group to detect and report natural resources violations and, in particular, marine-related violations. The DLNR has also authored and implemented a new rule to strengthen its enforcement and regulatory efforts regarding the use of gill nets. And, they supported legislation that will allow DLNR enforcement officers to search coolers and other containers, including vehicles and boats if they suspect illegal gear or catch is present. Unfortunately, this particular legislation is for "searches without probable cause," which is why we disagree with it.

With the exception of their latest request, any efforts toward increased legislation and enforcement are welcome and appreciated. However, we believe most, if not all, of their current legislative, administrative and enforcement efforts are a smokescreen designed to conceal the DLNR's and the Department of Health's (DOH) unwillingness and inability to tackle the larger issues that negatively impact the fish populations and marine resources they are intended to protect.

Particularly, we are perplexed by both the DLNR's and DOH's lackluster approach to addressing and abating the negative impacts that sewage, illegal dumping, construction, farming and agriculture, golf courses, septic tanks, aquatic research facilities and projects, and other point and non-point pollution have on our fish and marine resources. We believe that to compensate for its lack of protection in these areas, the DLNR is diligently and aggressively implementing rules that will allow warrantless searches and ban gill nets.



New laws have restricted gill net use in Hawai'i waters.

DLNR and DOH: A Toxic Combination

by Carroll Cox

Wastewater

For many years EnviroWatch Inc. has been investigating and reporting on the City and County of Honolulu and the U.S. Department of Defense's Waste Water Treatment Plant operations near Wahiawa. We are particularly concerned about the disposal and dumping of treated sewage water into irrigation ditches and the Kaukonahua Stream, which runs through Central O'ahu and empties into the ocean on the North Shore. We have proven that the water in the irrigation ditch owned by Dole Foods Hawaii is treated wastewater from the City and County of Honolulu's Wahiawa Waste Water Treatment Plant, via the Wahiawa Reservoir, and the Schofield Barracks Waste Water Treatment Plant. After our coverage of this story, signs were posted warning the public that water in the irrigation system is not clean.

A large percentage of the water from the treatment plant finds its way to the ocean on the North Shore, and some of it just percolates into the ground water. This so-called "treated" water contains suspended solids, chemicals, estrogen, oil, antibiotics, herbicides, pesticides, heavy metals and many other contaminants. We still don't know the ecological threats some of these contaminants pose to fish and other marine resources.

And worse, due to problems with the treatment plant, every so often untreated sewage gets dumped into Lake Wilson, affecting the overall levels of contaminants.

These observations beg the question, where is the DLNR's legislation to conduct warrantless searches, or searches without probable cause, at these facilities? What exactly is the DLNR doing about pollution from these facilities and others like them? **continued...**



Effluent water from Lake Wilson being dumped via Dole's irrigation flume into the Kaukonahua Stream.

Farm runoff, aquaculture facilities, illegal dumping and other activities have been proven to have a negative impact on fish populations and other marine resources. Research publications and government and privately funded environmental programs have emphasized the need to curb overflow. Although scientific reports show many human impacts are to blame for the fisheries decline, it seems most are ignored by government. Emphasis is not being placed on a major problem that deteriorates water quality, degrades fish habitat and adds to the declining health of fisheries.

Unfortunately, according to the following examples, we must report that the DLNR and DOH fall far short in their efforts to implement measures to reduce impacts in these areas.



State-operated oil dump station at Kewalo Basin.



This Dole Foods irrigation ditch sign warns of pollution.

DLNR & DOH: Toxic Combination
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I had occasion to talk to some guys using what appeared to be an illegal gill net in one of the state parks. I asked if they were concerned the game warden or conservation officer would catch them using the net. They told me they weren't concerned because they knew exactly where the game warden would be for that area on any given night. When asked to clarify, they told me the game warden punctually locks the gates at the various state parks.

Oil and Cases



Cutting air conditioners releases the refrigerant gas.

I have documented people cutting and dismantling air conditioners in state parks during daylight hours. No one from the DLNR intercepts them. We observed them dumping oil from compressors on the ground and allowing the refrigerant gas to flow into the atmosphere. They told me they have been doing this for a year and often stop in the park to cut up air conditioners and other scrap metal for sale. The oil will eventually find its way into the storm drain and then the ocean. The oil also poses a threat to the birds in the area.

Aquatic Research

Aquatic research facilities and projects pose a threat when their discharged sediment soils fish eggs or larvae, making them more susceptible to fungal growth. Sediments also suffocate the large egg masses laid by some fish. Sediments increase turbidity, which blocks sunlight that is needed to grow healthy coral reefs. Heavy metals and other pollutants, pesticides, estrogen and antibiotics build up in the tissues of some fish and affect marine life throughout the food chain.

Illegal Dumping



Lead-acid car batteries pile up on a west-side beach.

Along the coast of our islands we have documented the dumping of large numbers of lead acid batteries in or near tide pools, streams and wetlands. In some instances, it appears the batteries have been there for many years. Also, drums, bottles and pails of motor oil, transmission fluids, paints and solvents can be found. All of these discarded products lay around for long periods of time, eventually leeching into the ground water. The runoff goes into our streams, tide pools and ocean. In one instance, we even found banned pesticides dumped in a wetland area.

Don't get me wrong. In no way are we suggesting that the DLNR is wrong for banning gill nets, enforcing fishing laws, or getting the public involved. However, we do believe DLNR is remiss in its failure to investigate and prosecute the larger problems that are causing even more damage to our resources. They are missing the bigger picture and attempting to cover up their past mistakes by going after the easier, more visible targets that will not cost a lot of time, politics or money to prosecute. And, without enforcement, none of it will matter.

The following are some of the facts we have encountered during our investigation of problems causing damage to our state.



This clothes dryer was dumped and left on the beach.

About Oceanic Research



Sponge and brittle stars thrive in Oceanic's outfall.

For more than 20 years, Sea Life Park and the Oceanic Institute were permitted by the Hawai'i State DOH, DLNR and the Hawaii State Department of Transportation (DOT) to dump their effluent wastewater into a culvert that drains into the ocean in the vicinity of Kaupo Beach, Waimanalo, O'ahu.

Unfortunately, the public was never told that this flow was effluent sewage from the nearby dolphin tanks, seal ponds and aquatic farm tanks. The public was never told that it was not a natural stream carrying natural mountain spring water, as many of them had been led to believe.

The effluent flowing from the Oceanic Institute provided a perfect habitat for non-native species of marine life to thrive and compete with native species. When we initially advised the DOH of this problem, we were told no such outfall existed and the Oceanic Institute was only allowed to discharge its effluent into injection wells.

On January 30, 2003, we filed a formal complaint against the Department of Health, the Oceanic Institute and Sea Life Park for the unlawful practice of discharging effluent or wastewater into the ocean. We filed the complaint because our previous attempts to request the Department of Health initiate legal action against the Oceanic Institute and Sea Life Park for dumping wastewater generated from their aquarium and aquaculture businesses were unsuccessful.

After more than a year, the outfall was finally shut down, but we never received any formal notification from the DOH, DLNR, DOT or the EPA regarding this matter, nor have we been advised how the effluent is being handled now.

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Seaweed (ogo) grows in Oceanic Institute's outfall.

DLNR & DOH: Toxic Combination
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Facts About Maui Scrap Metal

On the island of Maui, hazardous waste was detected in soil at the Maui Scrap Metal Company Inc.'s facility in Waikapu, Maui. Clayton Group Services Inc. was retained to conduct a limited Phase II investigation of the surface and near-surface soils at the Maui Scrap Metal yard and two adjacent parcels in Waikapu in order to assess the presence or absence of chemically impacted soils resulting from the storage and processing of scrap metal at the site.

A total of three sites were identified for testing. Site A, with an area of 8.5 acres, is located at Tax Map Key 2- 3-8-05-23. The other two sites (B and C) are located on Alexander & Baldwin Inc. property, south of the main facility, across Waiko Road. Site B includes approximately 5.5 acres of land, with a portion in TMK 2-3-8-07-10. Site C is approximately 7 acres, and includes a portion of two parcels, TMK 2-3-5-02.001-001 and 2-3-6-02-03. The total land area of the sites is approximately 21 acres.

Clayton's report reflected that on July 13 and 14, 2004, they collected a total of nine soil samples from three boreholes (three soil samples per borehole), and 16 soil samples from eight test pits (two soil samples per test pit) from the three sites. The laboratory's analytical results from the sampling found that the level of PCBs was 38 times higher than the allowable level.



Cars and other illegally dumped trash litter the islands. Benzo(a)pyrene was more than double the allowable level, and TPH as heavy oil was 40 percent more than allowed.

It should be noted that the scrap metal facility was owned and operated by Roger Apana, a relative of the former Maui Mayor Kimo Apana. The Apanas were also close family friends with Steven Chang, who is currently administrator of the Hawai'i State Department of Health's Solid And Hazardous Waste Branch. Steven Chang subsequently recused himself from the matter, after we complained that there seemed to be special treatment of Apana and Maui Scrap Metal Inc.

Roger Apana's facility was an auto salvage facility that, for many years, operated without a Solid and Hazardous Waste Permit, with the explicit knowledge of the DOH. EnviroWatch Inc. documented and reported numerous violations to the DOH. We also found that the DOH cited the facility many years ago and issued a cease and desist order. However, they then signed a consent decree and the violations continued, along with the buildup of even more hazardous waste in the soil.

Facts About the Wahiawa Waste Water Plant

The DLNR is further remiss in their failure to prosecute the City and County of Honolulu for the illegal dumping of raw sewage into state waters as a result of the many spills and discharges of effluent treated wastewater from the Wahiawa Wastewater Treatment Plant into the Kaukonahua Stream. Hawaii Administrative Rules, Section 11-54-04(a)(3), state: "all waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants, including substances in amounts sufficient to produce taste in water or detectable color, turbidity or other conditions in the receiving waters." If there is no enforcement authority in this matter, why haven't we seen an effort by the DLNR to initiate legislation to give them enforcement powers over laws such as these?

As you may recall, the Wahiawa Reservoir has had its share of problems with salvinia and hyacinth, both alien aquatic plants. These two species were able to grow out of control because the water in the reservoir is rich in nitrogen. So, if the DLNR and the DOH permit the City and County of Honolulu, the U.S. government and Dole Foods Hawaii to dump this exact same effluent into the Kaukonahua Stream that eventually ends up in the ocean at Kaiaka Bay on the North Shore, will the nitrogen-laden water that provided such a rich and fertile food source for the salvinia and the hyacinth become a food source for the alien or gorilla ogo that we are now having problems with around the island, or cause sores and tumors on fish and sea turtles? Will the discharge by Dole cause a turbid plume when it enters Kaukonahua Stream and eventually makes its way to the ocean, causing algal blooms as we see in the waters of Waimanalo?

In 2002 the DOH conducted a "Level I" preliminary sampling of contaminants in fish for risk assessment. The results indicated some concern, and a "Level II" test was recommended. As of October 2006, no Level II testing had been done.

On October 6, 2006, the Pacific Justice Center filed a 60-day notice letter of intent to sue the DOH, on behalf of EnviroWatch Inc., for failure to enforce the Constitution of the State of Hawai'i, Chapter 342D and other applicable Hawaii Revised Statutes, the Clean Water Act, and the Toxic Substance Act. To date we have not been advised by the DOH if the Level II test has been conducted.

It was reported the state spent more than a million dollars to clean up the salvinia. The project afforded many photo opportunities for the mayor, the governor, state officials and the Department of Defense for their help in the cleanup. But, all along, the DOH has had knowledge that, lying just inches below the salvinia, there were fish with a high level of contaminants that should have been a cause for concern. Yet they did nothing, even after testing confirmed the contaminants. The sad part of the story is, it would only cost around \$35,000 to conduct a Level II test.

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Signs at Wahiawa remind anglers about bag limits.

Unfortunately, the DLNR was preoccupied with the fact that they did not want to kill off fish because it would hurt the recreational fishing industry. Though the DLNR was concerned that the salvinia was unsightly, they were more concerned that if they killed the fish, it would cause a stink and impede fishermen from catching fish.

But, the fish are so contaminated they are not worth catching. To make matters worse, all the DLNR did was put up confusing signs about bag limits for certain species. The term "bag limits" is construed to mean you can put the fish in a bag and take them home to eat, not catch them, bag them and waste them. From interviews with fishermen around the reservoir, we have learned firsthand that some of them eat and sell the fish they catch from the Wahiawa Reservoir.

We became even more concerned when, on several occasions, we witnessed individuals wading in the irrigation ditch that leads out of the reservoir. They were gathering clams to be eaten or sold. We believed that human consumption of the clams is a potential health risk and the public should be notified. Therefore, we requested that signs in various languages be posted along the irrigation ditch to inform the public about the health risk associated with eating the clams and coming in contact with the water.

It is not just our opinion that the discharge of water from the Wahiawa Reservoir is wrong. Here is a portion of a July 16, 2002, letter Gary Gill, deputy director of the DOH, wrote to Mr. Gilbert Coloma-Agaran, chairman of the DLNR.



"The Department of Health has received several complaints regarding muddy water discharges and disturbing odors due to discharges from behind the dam at Lake Wilson. On June 25, 2002, an inspection revealed water flowing from an open pipe below Lake Wilson. There is no National Pollutant Discharge Elimination System (NPDES) permit authorizing the discharge. It is our understanding that the discharge is controlled by Dole Food Company Hawaii, and that the water being discharged comes from the bottom of Lake Wilson. The Department requested that the Department of Land and Natural Resources and Dole cease the discharge of muddy waters in present capacity and, if it is necessary to continue the discharge, release water from a higher level in Lake Wilson where the water quality is better."

Once again, these observations beg the question, what exactly is the DLNR doing about pollution from these facilities, and others like them, that are doing irreparable harm to our fish, our oceans and our environment?

E-Mail Buoy



This vessel ran aground in Moanalua Bay, Hawai'i-kai. It was towed to Keehi Small Boat Harbor and left in this position until the paper work is cleared. Who amongst us thinks that this is the right way to handle this boat? What happened to the oil, fluids, grease and grime and paint flakes? DLNR claims that the Coast Guard said it was okay!

Carroll Cox

Conclusion

Who is protecting our resources from the major polluters and polluting sources? These examples are only a few of the problems that we have documented. These practices are repeating themselves throughout our islands. Pollution, runoff and carelessness from the big offenders does a lot more damage than the weekend fisherman out catching a few fish with his buddies and kids. How many fish can you get in your ice chest?

There is a lot of talk that the outfalls from the sewage treatment plants are not a problem. They say that the treated effluent is within acceptable levels. But how often do we hear about spills from the various treatment plants? How often are Lake Wilson, Kane'oh'e Bay and Sand Island in the news with yet another spill? Is the DLNR searching those facilities and enforcing pollution laws? How about Mayor Hannemann dumping 48 million gallons of sewage into the Ala Wai? Are they searching his office, his briefcase or his car?

The Hawai'i State DOH and the DLNR can best be described as toothless paper tigers. They give big business, potential employers and family friends the kid glove treatment while shredding and attacking the basic rights afforded the rest of us by the Constitution of the United States—under the pretense of protecting a fish caught out of season or one that is undersized.

We are being warned about global warming and the greenhouse effect on our environment. But, all the while there is a meltdown in the Hawai'i State DOH and the DLNR. I wish I could have reported that there was a ray of hope with our legislators and the executive branch of our government. But, all I can report is that their approach to these matters is the introduction of legislation that can only be viewed as self-serving smoke and mirrors, and a lot of hot air.

... Carroll

To: <envirowatch@envirowatch.org>

I was forced to use the Phoenician Ramp opposite the old Ko Olina site yesterday evening (I launched the boat from the Ala Wai, and we decided to recover at Barber's Point due to rough seas). I have used the Ko Olina launch ramp on numerous occasions in the past, and I was appalled at the unsafe conditions at the Phoenician Ramp. There is no lighting, and the wave surge made recovering my boat dangerous. Also the grade of the ramp is so shallow that I had to back my truck into the water to recover my boat (the surge took the water up past my front tires).

I have a 24' boat, and I will never use this ramp again. I am writing a letter to the Land Use Commission regarding this matter today. Keep up your good efforts regarding this matter. I used your website to get the address of the Land Use Commission.

Thanks,
Roy Sokolowski
Waialua, O'ahu