Message

From: McKim, Krista [mckim.krista@epa.gov]
Sent: 1/27/2015 12:58:47 PM
To: Steinbauer, Gary [steinbauer.gary@epa.gov]; Ackerman, Mark [ackerman.mark@epa.gov]; Kuefler, Patrick [kuefler.patrick@epa.gov]
Subject: FW: Minntac - Additional Order Regarding Hawai'i Wildlife Fund v. County of Maui Case
Attachments: Maui2015-1-23Order.pdf

FYI

From: Paula Maccabee [mailto:pmaccabee@justchangelaw.com]
Sent: Monday, January 26, 2015 7:01 PM
To: Foss, Ann (MPCA); Erik.Smith@state.mn.us; Pierard, Kevin; McKim, Krista; Neblett, Adonis (MPCA)
Cc: nancyschuldt@fdlrez.com; Margaret Watkins; John Coleman
Subject: Minntac - Additional Order Regarding Hawai'i Wildlife Fund v. County of Maui Case

In WaterLegacy's December 19, 2014 comment letter pertaining to the pre-publication draft of Minntac Tailings Basin NPDES/SDS Permit MN0057207, we referred to the case of *Hawaii Wildlife Fund v. County of Maui*, 2014 U.S. Dist. LEXIS 74256; 44 ELR 20128 (D. Haw. 2014). This case held that groundwater discharge that was hydrologically connected to surface water was regulated under the Clean Water Act.

This week, the district court granted plaintiff's second motion for partial summary judgment, finding that the County of Maui violated the Clean Water Act by discharging effluent without a NPDES permit at four injection wells at the Lahaina Wastewater Reclamation Facility that were hydrologically connected with the Pacific Ocean.

My understanding from counsel involved in this case is that the court's ruling means that, each day the County uses the facility, it commits multiple violations of the Act, subjecting the County to civil penalties of up to $37,500 per day, per violation.The court will impose civil penalties for the County's violations following a trial set for August 11, 2015. Maximum penalties in this case already exceed $100 million, and the multiple violations suggest a potential exposure of over $100,000 per day.

A copy of the most recent order in this case is attached for your convenience.

Best regards,

Paula Maccabee, Esq.
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