

JAN 17 2025

A BILL FOR AN ACT

RELATING TO STREAM WATER QUALITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Ulehawa stream is
2 contaminated. The main source of the contamination is believed
3 to be the PVT Integrated Solid Waste Management Facility at
4 87-2020 Farrington highway, Waianae, Hawaii 96792, which is
5 operated by PVT Land Company, Ltd.

6 The legislature further finds that a four-phase proposal,
7 dated July 2024, provides guidance on addressing the
8 contamination.

9 The purpose of this Act is to require the department of
10 health to implement the proposal to address contamination of
11 Ulehawa stream.

12 SECTION 2. **Phase 1; verifying compliance with the national**
13 **pollutant discharge elimination system permit effluent**
14 **limitations and benchmark monitoring Requirements.** (a) The
15 department of health clean water branch shall review reports
16 submitted by PVT Land Company, Ltd., under the national



1 pollutant discharge elimination system permit effluent
2 limitations and benchmark monitoring requirements.

3 (b) If any report indicates that the benchmarks are not
4 satisfied or the effluent limitations are exceeded, the
5 department of health clean water branch shall assist PVT Land
6 Company, Ltd., to determine whether drainage or stormwater
7 pollution control measures should be augmented.

8 (c) After the department of health clean water branch
9 determines that PVT Land Company, Ltd., has:

10 (1) Satisfied the benchmarks and that the effluent
11 limitations are not exceeded; or

12 (2) Made proper augmentations to satisfy the benchmarks
13 and not exceed effluent limitations,
14 the department of health may proceed to phase 2.

15 SECTION 3. **Phase 2; plan for samples and analysis.** (a)

16 Following the completion of phase 1, the department of health
17 shall develop a plan to take samples and perform analysis of the
18 extent of contamination in Ulehawa stream. The plan under this
19 section shall be known as the phase 2 plan and shall include:

20 (1) A definition of the area to be analyzed;



- 1 (2) Dividing Ulehawa stream into zones for screening
- 2 purposes with monitoring stations upstream and
- 3 downstream of each zone. Each downstream monitoring
- 4 station shall be representative of the upstream zone;
- 5 (3) Monitoring at appropriate frequencies during the:
- 6 (A) Wet season of November 1 through April 30; and
- 7 (B) Dry season of May 1 through October 31;
- 8 (4) Collecting samples representative of the stream at the
- 9 time of collection;
- 10 (5) Comparing the samples with water quality standards and
- 11 other criteria, including:
- 12 (A) The basic criteria in sections 11-54-4 and 11-54
- 13 Appendix E, Hawaii Administrative Rules,
- 14 including specific criteria for:
- 15 (i) Streams in section 11-54-5.2(b)(1), Hawaii
- 16 Administrative Rules;
- 17 (ii) Estuaries in section 11-54-5.2(d)(1), Hawaii
- 18 Administrative Rules; and
- 19 (iii) Recreational criteria in section 11-54-8,
- 20 Hawaii Administrative Rules;



- 1 (B) Basic criteria for at least ninety toxic
2 parameters with sampling data to be compared to:
3 (i) The freshwater acute and chronic criteria;
4 (ii) The saltwater acute and chronic criteria for
5 tidally influenced portions of Ulehawa
6 stream; and
7 (iii) Standards for fish consumption;
- 8 (C) Specific criteria for streams and estuaries
9 containing criteria for nutrients, solids,
10 dissolved oxygen, pH, and temperature with
11 different criteria for the wet season of November
12 1 through April 30 and the dry season of May 1
13 through October 31; provided that sampling data
14 shall be compared to the geometric mean and shall
15 not exceed the given value by more than two per
16 cent during those respective times;
- 17 (D) Recreational criteria for enterococci, the
18 bacteria that live in the intestinal tracts of
19 humans and other warm-blooded animals, for
20 purposes of measuring potential contamination of
21 streams and rivers by fecal waste; provided that



sampling data shall be compared to the geometric mean and statistical threshold value; and

(E) Salinity measurements to determine which parts of Ulehawa stream are tidally influenced by the ocean and where the estuary water quality standards criteria apply;

(6) An authorization that any zone that meets all applicable water quality standards over the course of one year of sampling may be removed from the screening process; and

(7) A requirement that each zone that does not satisfy the applicable water quality standards shall be used for phase 3 and shall be known as phase 3 zones.

(b) The department of health shall implement the phase 2 plan or enter into a contract with a private entity to implement the phase 2 plan.

SECTION 4. **Phase 3; investigation.** (a) The department of health shall establish a plan to investigate each phase 3 zone.

(b) The plan under this section shall be known as the phase 3 plan and shall include:



(1) Investigating all properties bordering or in the vicinity of Ulehawa stream in each phase 3 zone with a requirement for investigators to walk on both sides of the stream in each phase 3 zone to check all adjacent properties for illicit discharges, activities and evidence of water pollution, and pipes draining into the stream;

(2) Identifying all cesspools within each phase 3 zone through the use of dye packs or tracers; and

(3) Additional sampling as necessary, including that if the investigators determine that a homeowner is releasing pollutants into Ulehawa stream during rain events, that stormwater samples be concentrated, collected, and analyzed from the property.

(c) The department of health shall implement the phase 3 plan or enter into a contract with a private or nonprofit entity to implement the phase 3 plan.

SECTION 5. **Phase 4; regulatory action.** (a) The department of health shall take regulatory action, including restoration and corrective action, on all property owners



1 identified in phase 3 as causing or contributing to
2 contamination of Ulehawa stream.

3 (b) The burden of proof will be on the department for
4 enforcing water quality standards on a property owner.

5 (c) The department of health shall demonstrate evidence of
6 the pollutant source, the discharge, and the pollutant release
7 into Ulehawa stream.

8 SECTION 6. **General provisions.** (a) The department of
9 health may adopt emergency rules without regard to chapter 91,
10 Hawaii Revised Statutes, for purposes of this Act; provided
11 that:

12 (1) A draft of the proposed emergency rules shall be made
13 publicly available on the website of the department of
14 health not less than thirty days before the effective
15 date of the emergency rules;

16 (2) The emergency rules shall be made publicly available
17 on the website of the department of health;

18 (3) Proposed amendments to the emergency rules shall made
19 publicly available on the website of the department of
20 health not less than thirty days before the effective
21 date of the amendment; and



1 (4) Any person may appeal the reasonableness of any
2 emergency rule to the circuit court.

3 (b) At the request of the department of health, the
4 university of Hawaii shall provide assistance for purposes of
5 this Act.

6 SECTION 7. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so much
8 thereof as may be necessary for fiscal year 2025-2026 and the
9 same sum or so much thereof as may be necessary for fiscal year
10 2026-2027 for implementation of sections 3, 4, and 5 of this
11 Act.

12 The sums appropriated shall be expended by the department
13 of health for the purposes of this Act.

14 SECTION 8. This Act shall take effect on July 1, 2025.

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INTRODUCED BY:

Kurt Zerbe



S.B. NO. 619

Report Title:

Ulehawa Stream; Contamination; DOH; UH; Appropriation

Description:

Implements a 4-phase plan for the Department of Health to address contamination of Ulehawa Stream. Requires the University of Hawaii to provide assistance. Appropriates moneys.

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