

RUSH

REQUEST FOR LEGAL SERVICES

RECEIVED
CORPORATION COUNSEL
2017 MAY 30 PM 4:18

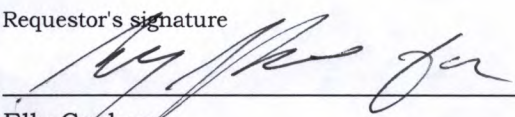
Date: May 30, 2017
From: Elle Cochran, Chair
Infrastructure and Environmental Committee

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Pat Wong, Esq.

Subject: POSSIBLE MORATORIUM ON EXPORTING SAND AND THE MAUI INLAND SAND RESOURCE QUANTIFICATION STUDY (IEM-33)

Background Data: Review and approve proposed ordinance. An original, signed copy of the ordinance is required.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Elle Cochran	Contact Person <u>Gary Saldana</u> (Telephone Extension: <u>7137</u>)
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RECEIVED
2017 JUN -2 AM 9:21
OFFICE OF THE
COUNTY COUNCIL

ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) **URGENT** (WITHIN 3 WORKING DAYS)
 SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): June 2, 2017
REASON: For consideration at the IEM meeting of Monday, June 5, 2017.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>MJH</u>	ASSIGNMENT NO. <u>2017-0092</u>	BY: <u>AKM</u>
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL

Date 06/02/17 By MICHAEL J. HOPPER

(Rev. 7/03)

iem:ltr:033acc01:grs
Attachment
Cc: Laurie Newman, Department of the Corporation Counsel

Resolution

No. _____

REFERRING TO THE LANAI, MAUI AND MOLOKAI
PLANNING COMMISSIONS A DRAFT BILL TO AMEND
THE COMPREHENSIVE ZONING ORDINANCE ESTABLISHING
A MORATORIUM ON MINING, EXTRACTION, STOCKPILING,
OR EXCAVATION OF INLAND SAND

WHEREAS, the Council is considering a proposed bill to establish a two-year moratorium on the mining, extraction, stockpiling, or excavation of inland sand; and

WHEREAS, according to the Maui Inland Sand Resource Quantification Study 2006 (Study), the remaining inland sand inventory was expected to have a remain life span of seven and half years; and

WHEREAS, the Study also noted nearly four times the amount of inland sand that is utilized in the County is transported off-island to Oahu; and

WHEREAS, in an effort to preserve and protect the health and safety of Maui's sensitive environment, mining of inland sand must be properly reviewed; and

WHEREAS, to preserve, maintain and avoid the disturbance of Hawaiian historical, cultural or archaeological sites and unmarked human burial sites, taking of inland sand must be regulated; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission reviews proposed land use ordinances and amendments thereto, and provides findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That is hereby refers the proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19 OF THE MAUI COUNTY CODE,

Resolution No. _____

ESTABLISHING A MORATORIUM ON MINING, EXTRACTION, STOCKPILING, OR EXCAVATION OF INLAND SAND”, a copy of which is attached hereof as Exhibit “1” and made a part hereof, to the Lanai, Maui and Molokai Planning Commissions for appropriate action, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and

2. That is respectfully requests that the Lanai, Maui and Molokai Planning Commissions transmit its findings and recommendations to the Council as expeditiously as possible; and

3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Lanai, Maui and Molokai Planning Commissions.

APPROVED AS TO FORM
AND LEGALITY:



MICHAEL J. HOPPER
Deputy Corporation Counsel
County of Maui

2017-0092 IEM-33 2017-06-01 Resolution

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,
ESTABLISHING A MORATORIUM ON MINING, EXTRACTION, STOCKPILING,
OR EXCAVATION OF INLAND SAND

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this ordinance is to authorize a temporary moratorium on the mining of inland sand to conduct further analysis and proper regulation of inland sand and to protect public health, safety, general welfare of Maui's environment and preserve, enhance and avoid the disturbance of Hawaiian historical, cultural or archaeological sites and unmarked human burial sites. The Maui Inland Sand Resource Quantification Study (2006) found the remaining inland sand inventory is limited at approximately 970,000 tons with a life of 7.5 years. Therefore, it is necessary to limit and regulate the taking of inland sand.

SECTION 2. Section 19.040, Maui County Code, is amended to read as follows:

“Resource extraction” means activities engaged in the exploration, mining, and processing of natural deposits of rock, gravel, [sand] and topsoil.”

SECTION 3. Section 19.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

EXHIBIT " 1 "

“Sand mining” means any process or method of digging, excavating, drilling, extracting, tunneling, dredging, or stockpiling of sand from the land surface or underground.”

SECTION 4. Chapter 19.04, Maui County Code, is amended by adding section 19.04.025 to read as follows:

“19.04.025 Moratorium on sand mining. No individual or entity shall mine, extract, stockpile, or excavate inland sand in any district within the County. This section shall be repealed when the council receives an update to the Maui Inland Sand Resource Quantification Study (2006) and the council passes an ordinance regulating the mining, extracting, excavating, or stockpiling of inland sand, or two years after the effective date of this ordinance, whichever is sooner, unless reenacted as provided by law.”

SECTION 5. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 6. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui
2017-0092
IEM-33 2017-06-01 Resolution Exhibit “1”
(Ordinance)