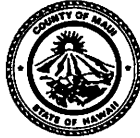


Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
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Tamara Paltin
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Yuki Lei K. Sugimura



COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

July 30, 2021

Director of Council Services
Traci N. T. Fujita, Esq.
RECEIVED
Deputy Director of Council Services
David M. Raatz, Jr., Esq.

2021 JUL 30 AM 11:41

OFFICE OF THE
COUNTY CLERK

The Honorable Alice L. Lee
Council Chair
County of Maui
Wailuku, Hawaii 96793

Dear Chair Lee:

**SUBJECT: URGING THE MAYOR TO CONTINUE FOCUSED
COLLABORATION WITH THE COUNCIL ON
IMPROVING THE COUNTY'S WASTEWATER SYSTEM**
(PAF 21-231)

May I request the attached proposed resolution, entitled "URGING THE MAYOR TO CONTINUE FOCUSED COLLABORATION WITH THE COUNCIL ON IMPROVING THE COUNTY'S WASTEWATER SYSTEM," be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink that reads "Kelly T. King".

KELLY TAKAYA KING
Councilmember

paf:jbf:21-231b

Enclosure

COUNTY COMMUNICATION NO. 21-395

Resolution

No. _____

URGING THE MAYOR TO CONTINUE FOCUSED COLLABORATION WITH THE COUNCIL ON IMPROVING THE COUNTY'S WASTEWATER SYSTEM

WHEREAS, Plaintiffs Hawaii Wildlife Fund, Sierra Club-Maui Group, Surfrider Foundation, and West Maui Preservation Association, filed a lawsuit in the United States District Court for the District of Hawaii on April 16, 2012, against the County of Maui, alleging violation of the Federal Water Pollution Control Act, also known as the Clean Water Act, arising from the use of Lahaina wastewater injection wells; and

WHEREAS, on January 23, 2015, and June 25, 2015, the District Court granted plaintiffs' motions for partial summary judgment; and

WHEREAS, the County appealed the District Court's decision to the United States Circuit Court of Appeals for the Ninth Circuit, and the Circuit Court ruled against the County on February 1, 2018; and

WHEREAS, the County appealed the Circuit Court's decision to the United States Supreme Court; and

WHEREAS, on April 23, 2020, the Supreme Court rendered a decision in County of Maui, Hawaii v. Hawaii Wildlife Fund et al., stating "that the statute that best captures Congress meaning . . . is that a permit is required when there is a discharge from a point source directly into navigable water or when there is the functional equivalent of a direct discharge"; and

WHEREAS, the Supreme Court's decision resulted in the case being returned to District Court; and

WHEREAS, on July 15, 2021, the District Court granted plaintiffs' motion for summary judgment and denied the County's motion for summary judgment; and

WHEREAS, on July 26, 2021, the District Court entered judgment in the plaintiffs' favor; and

Resolution No. _____

WHEREAS the Mayor now needs to decide whether the County will again appeal to the Circuit Court and, perhaps eventually, the Supreme Court; and

WHEREAS, this case has dragged on for nearly a decade, at a cost to the County taxpayers of millions of dollars, and with further appeals could continue another several years; and

WHEREAS, in the policy-making realm, the Council and the Mayor have been diligent partners in making substantial investments in improving the efficiency and effectiveness of the County's wastewater treatment system, making advancements in fulfilling the Countywide Policy Plan's directive to "phase out the use of injection wells"; and

WHEREAS, the County's collaborative efforts to improve its wastewater treatment system benefits Maui County's environment, marine life, coastal reef system, while protecting residents' life and the County's fiscal well-being; and

WHEREAS, the Council believes the County should focus on securing jobs for residents, enhancing the local economy, providing shelter, and assisting individuals and families who need health care and treatment, as well as continuing to improve the wastewater system, rather than in continuing lengthy, distracting, and expensive courtroom fights; now, therefore,

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

1. That it urges the Mayor to continue focused collaboration with the Council on improving the County's wastewater system; and
2. That the Mayor and Council should remain focused on addressing the urgent needs of residents of Maui, Molokai, and Lanai, including securing jobs for residents, enhancing the local economy, providing shelter, and assisting individuals and families who need health care and treatment, rather than expending more time, money, and other resources on legal fights over the Clean Water Act; and

Resolution No. _____

3. That certified copies of the Resolution be transmitted to the Mayor, the Director of Environmental Management, and the Corporation Counsel.

paf:jbf:21-231a