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Press Release by:

Councilmember MICHAEL J. MOLINA

***Molina cast key vote in settlement of landmark case***



WAILUKU – Today the County of Maui County Council voted to recommend settlement of the case between Hawaii Wildlife Fund , ET AL., vs County of Maui scheduled before the United States Supreme Court in November 2019.

At its meeting of May 23, 2019, the Council’s Governance, Ethics, and Transparency Committee (GET), Committee Chair Michael J. Molina voted to continue the case to the Supreme Court. However, Committee Chair Molina changed his vote during a second GET meeting held on September 6, 2019 that would settle the case and would move to dismiss the case from Supreme Court consideration.

At today’s Council meeting Councilmember Molina cast the key vote to settle the case and dismiss the Supreme Court case.

“After the initial GET meeting I continued to meet with both sides of the case, said Molina. I wanted to maintain an open mind to fully vet this matter before hearing the case again.”

During the second GET meeting the Committee was able to hear from Dr. Bruce Anderson, Director of the State Department of Health (DOH) to clarify matters surrounding clean water and ground water regulatory programs.

Dr. Anderson clarified that the DOH regulates the Clean Water Act for the Environmental Protection Agency (EPA). Furthermore, in response to an inquiry by the Committee Dr. Anderson noted he did not understand why the EPA stated in correspondence to the county that individual cesspools and septic systems would be targeted by the EPA.

“Dr. Anderson was able to provide clarity on issues as it relates to cesspools and septic tank regulation, said Molina. I was convinced that settlement would not require new regulation for residential cesspools and septic systems.”

In response to Mayor Michael Victorino’s press release of September 19, 2019, Molina noted the following:

“I am disappointed that the Mayor is using speculation and conjecture to instill fear within the community about potential implications of a settlement, said Molina. What the Mayor failed to mention was what are the consequences if we lose the case at the Supreme Court?”

“Why were the Mayors comments one sided only referencing settlement implications without stating potential impacts if the case is continued to the Supreme Court and we lose, said Molina.”

The U.S. Court of Appeals for the 9<sup>th</sup> Circuit decision outlines an extensive review of the facts including the tracer dye studies, a review of point source discharge and indirect discharges. In their decisions the Courts made it clear they are reinforcing that the Clean Water Act (CWA) regulates, point source discharges into navigable waters.

The County’s case has been heard twice, once by the U. S. 9<sup>th</sup> Circuit Court and once by the U. S. Court of Appeals for the 9<sup>th</sup> Circuit Court, both of which ruled against the County.

“The County has made its case twice before federal courts, both of which have concluded that the County violated provisions of the Clean Water Act, said Molina. If we continue the case, are we just spinning our wheels and we appear to be fighting a losing battle.”

The main dispute in this case is that the County believes they are not violating the Clean Water Act because we not injecting the pollutants in recycled wastewater directly into the ocean.

“If the Supreme Court is allowed to say it’s okay to inject pollutants into the ocean indirectly through ground water, why is this okay, said Molina. Instead of looking for authority to pollute, we need to simply not pollute.”

The lawsuit brought by Earthjustice on behalf of a citizens group was submitted in 2012, however the issue surrounding the Lahaina Wastewater Reclamation Facility injection wells dates back to 2009.

“I’m concerned that this matter has dragged on over a decade without resolution, said Molina. It is time for action, time to reach a solution once and for all.”

“The culture of Hawaii has always been to respect and preserve the environment, said Molina. I believe no matter the position on this vote no one wants to intentionally pollute the environment.”

“If we worked as hard on expanding reuse of recycled wastewater as we did on lawsuits and filing appeals, we can reduce the reliance on injection wells, said Molina. My vote is a commitment to the environment, a commitment preserving our ocean and a commitment to moving forward.”

*Mike Molina holds the council seat for the Makawao-Haiku-Paia residency area. He is chair of the Council’s Governance, Ethics and Transparency Committee. For questions please contact [mike.molina@mauicounty.us](mailto:mike.molina@mauicounty.us) or 270-5507.*

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