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Press Release by:

Councilmember MICHAEL J. MOLINA 

Molina seeks to settle the injection well case once and for all.

WAILUKU – Today Councilmember Michael J. Molina, Chair of the Council’s Governance, Ethics and Transparency Committee (GET) transmitted a proposed resolution to the committee entitled “AUTHORIZING SETTLEMENT IN HAWAII WILDLIFE, ET AL., V. COUNTY OF MAUI, CIVIL 12-00198 SOM-KJM, UNITED STATES DISTRICT COURT, DISTRICT OF HAWAII.”

The purpose of the proposed resolution is to settle the injection well case filed by the Hawaii Wildlife Fund (Plaintiffs) alleging the County violated provisions of the Clean Water Act.

As noted in the “Opinion of the Court” by the Supreme Court of the United States (Supreme Court), “In 2012, several environmental groups, brought the this citizens Clean Water Act lawsuit against the county claiming that the county was discharging a pollutant to navigable waters without the permit required by the Clean Water Act.”

The complaint was argued at the Supreme Court in November 2019 and decided by the Court in April 2020.

The Supreme Court decision in County of Maui, Hawaii v. Hawaii Wildlife Fund et. al, stated “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 waters or when there is the functional equivalent of a direct discharge.”

The Supreme Court “remand[ed] the case for further proceeding consistent with this opinion.”

Accordingly, the case was remanded to the Ninth Circuit Court of Appeals (Circuit Court), and the Circuit Court remanded the case to the United States District Court, where the case is pending as Hawaii Wildlife, et al., V. County of Maui, Civil 12-00198 SOM-KJM.

On May 30, 2020, Mayor Michael P. Victorino proposed a settlement offer to the Plaintiffs and on June 9, 2020, the plaintiffs offered a counter proposal to the County, which is attached as Exhibit “A”.

The proposed settlement resolution leaves the option open to allow the Council to accept the counter proposal from the Plaintiff’s or submit an alternative offer as a result of committee’s discussion.

“The case has continued over 8 years costing the taxpayers over \$4 million in legal fees, said Molina. **Enough already!** The County has challenged this case at numerous levels and the result is the same.”

“It has been said: “The definition of insanity is doing the same thing over and over again and expecting different results.” This is exactly what the Administration has been doing over the last 8 years and it has to stop, said Molina.”

At its meeting of July 7, 2020, the GET Committee was advised that the potential cost of continuing the case at the District Court level could be \$250,000 or more in attorney’s fee, discovery and other research.

Additionally, the GET Committee was advised that the case could continue on another several years.

“The County is currently in a pandemic crisis and economic downturn, said Molina. Our priorities should be the health, safety and well-being of our residents, not legal fees.”

“We should be focusing our resources on providing financial assistance, getting people to work, economic recovery, providing shelter and improving the health and safety of our residents,” said Molina.

“If the administration wants to continue this case, they have distorted priorities, said Molina. We need to focus on the real needs of families struggling to make ends meet, protecting our environment, marine life and coral reefs,” said Molina.

Molina intends to schedule the proposed resolution for review by the GET on August 25, 2020 at 9:00 a.m. In addition to receiving testimony by phone or video conference, the committee will accept written testimony, which may be submitted by emailing get.committee@mauicounty.us.

Information to how to submit oral testimony via BlueJeans will be posted on the committee meeting agenda along with the applicant’s project information. The GET meeting will also be available to view online and on Akaku Channel 53. For more information, visit mauicounty.us/agendas/.

** Mike Molina is Chair of the Council’s Governance, Ethics, and Transparency Committee. He holds the council seat for the Makawao-Haiku-Paia residency area.*

Go to mike.molina@mauicounty.us for more information or call 270-5507.

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