

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

August 25, 2015

**Committee**  
**Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Committee of the Whole, having met on August 7, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated July 21, 2015, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING SETTLEMENT IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK." The purpose of the proposed resolution is to authorize settlement of the case.

By correspondence dated July 29, 2015, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "AUTHORIZING AN INCREASE IN FUNDING RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP, IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK." The purpose of the proposed resolution is to raise the compensation limit for the employment of special counsel by an additional \$500,000 for trial preparation, motions, trial, and appeal, for a total compensation not to exceed \$2,750,000.

Your Committee notes the First Amended Complaint in the case alleges violations of the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S.C. Sections 1311(a) and 1342, and other laws, arising out of the County's operation of injection wells at the Lahaina Wastewater Reclamation Facility, and seeks injunctive relief, penalties, and attorney's fees and costs.

Your Committee further notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

Page 2

**Committee**  
**Report No.** \_\_\_\_\_

\$7,500. The Council previously authorized settlement of this case by Resolution 15-75.

Your Committee also notes Section 3-6(6), Revised Charter of the County of Maui (1983), as amended ("Charter"), authorizes the Council to retain or employ, by a vote of two-thirds of its entire membership, special counsel for any special matter presenting a real necessity for such employment. Charter Section 3-6(6) also requires that the compensation, if any, to be paid for the services be specified. The Council previously approved the employment of special counsel by Resolution 12-127, and increased compensation limits by Resolutions 14-52, 14-99, 14-137, 15-35, and 15-74.

The Corporation Counsel provided a brief update on the status of the case and emphasized the importance of special counsel's participation.

Because the case involves ongoing litigation, the Corporation Counsel requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Your Committee deferred a recommendation on the proposed settlement resolution, pending further discussion.

Your Committee voted 6-0 to recommend adoption of the proposed special counsel compensation resolution. Committee Chair Guzman, Vice-Chair Crivello, and members Baisa, Carroll, Couch, and White voted "aye." Committee members Cochran, Hokama, and Victorino were excused.

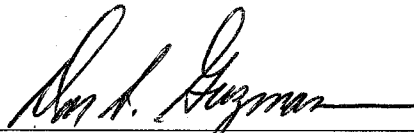
**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

Page 3

**Committee**  
**Report No.** \_\_\_\_\_

Your Committee of the Whole RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING AN INCREASE IN FUNDING RELATED TO THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP, IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



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DON S. GUZMAN, Chair

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# Resolution

No. \_\_\_\_\_

AUTHORIZING AN INCREASE IN FUNDING RELATED TO  
THE EMPLOYMENT OF SPECIAL COUNSEL HUNTON & WILLIAMS LLP,  
IN HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI,  
CIVIL NO. 12-00198 SOM BMK

WHEREAS, by Resolution No. 12-127, the Council authorized the employment of special counsel HUNTON & WILLIAMS LLP ("special counsel") to represent the County of Maui in matters relating to Hawaii Wildlife Fund, et al. v. County of Maui; and

WHEREAS, by Resolution Nos. 14-52, 14-99, 14-137, 15-35, and 15-74, the Council authorized increases in total compensation for trial preparation, motions, appeal and, if necessary, trial, for a total compensation of \$2,250,000; and

WHEREAS, the Corporation Counsel has requested authorization to raise the compensation limit for the employment of special counsel by an additional \$500,000 for trial preparation, motions, trial, and appeal, for a total compensation not exceeding \$2,750,000; now, therefore,


**Resolution No. \_\_\_\_\_**

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

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel by \$500,000, for a total compensation not exceeding \$2,750,000; and

2. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM  
AND LEGALITY:



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RICHELLE M. THOMSON  
Deputy Corporation Counsel  
County of Maui