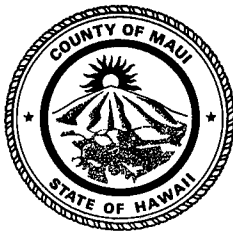


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

LYDIA A. TODA
Risk Management Officer
Tel. No. (808) 270-7535
Fax No. (808) 244-2646

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

RECEIVED
2015 DEC -3 PM 3:05
OFFICE OF THE
COUNTY COUNCIL

December 3, 2015

T O: Don S. Guzman, Chair
Committee of the Whole

F R O M: Richelle M. Thomson, Deputy Corporation Counsel *R. Thomson*

SUBJECT: **COW-1(3) Litigation Matters:**
Hawaii Wildlife Fund et al., v. County of Maui
Civil No. 12-00198 SOM BMK

Our Department respectfully requests the opportunity to present the enclosed proposed resolution authorizing the settlement of Plaintiffs' claim for attorneys' fees and costs related to the above-referenced lawsuit. This matter is time-sensitive, and we request that the Committee hear this matter at its earliest convenience.

Enclosed, for the Committee's reference is the Settlement Agreement and Order Re: Remedies and Judgment, which was entered by the U.S. District Court on November 17, 2015.

It is anticipated that an executive session will be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Thank you for your anticipated assistance in this matter.

Enclosures

Resolution

No. _____

AUTHORIZING THE SETTLEMENT OF PLAINTIFFS' CLAIM FOR ATTORNEYS FEES AND COSTS RELATED TO HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, CIVIL NO. 12-00198 SOM BMK

WHEREAS, Plaintiffs Hawaii Wildlife Fund, et al., filed a lawsuit in the United States District Court on April 16, 2012, Civil No. 12-00198 SOM BMK, against the County of Maui, alleging violations under the Federal Water Pollution Control Act, also known as the Clean Water Act; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, resolved this case by way of a negotiated settlement, which was approved by the Council of the County of Maui by Resolution No. 15-107 (2015); and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle the Plaintiffs' claim for attorneys fees and costs in this case under the terms set forth in an executive meeting before the Committee of the Whole; and

Resolution No. _____

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement of Plaintiffs' claim for attorneys' fees and costs by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of Plaintiffs' claim for attorneys' fees and costs in this case; now, therefore,

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

1. That it hereby approves settlement of the Plaintiffs' claim for attorneys' fees and costs in this case under the terms set forth in an executive meeting before the Committee of the Whole; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement related to Plaintiffs' claim for attorneys' fees and costs on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

Resolution No. _____

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

APPROVED AS TO FORM AND LEGALITY:



RICHELLE M. THOMSON
Deputy Corporation Counsel
County of Maui

DAVID L. HENKIN #6876
SUMMER KUPAU-ODO #8157
EARTHJUSTICE
850 Richards Street, Suite 400
Honolulu, Hawai'i 96813
Telephone No.: (808) 599-2436
Fax No.: (808) 521-6841
Email: dhenkin@earthjustice.org
skupau@earthjustice.org

Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAI'I

HAWAI'I WILDLIFE FUND, a)	CIVIL NO. 12-00198 SOM BMK
Hawai'i non-profit corporation,)	
SIERRA CLUB - MAUI GROUP, a)	SETTLEMENT AGREEMENT AND
non-profit corporation, SURFRIDER)	PROPOSED ORDER RE:
FOUNDATION, a non-profit)	REMEDIES; EXHIBIT A
corporation, and WEST MAUI)	
PRESERVATION ASSOCIATION, a)	
Hawai'i non-profit corporation,)	
)	
Plaintiffs,)	
)	
v.)	
)	
COUNTY OF MAUI,)	
)	
Defendant.)	

* Pursuant to Local Rule 10.2(b), please refer to the signature page for the complete list of parties represented.

SETTLEMENT AGREEMENT AND ~~PROPOSED~~ ORDER RE: REMEDIES

WHEREAS, on April 16, 2012, Plaintiffs Hawai'i Wildlife Fund, Sierra Club - Maui Group, Surfrider Foundation, and West Maui Preservation Association (collectively, "Plaintiffs") filed a Complaint against Defendant County of Maui ("Defendant"), since amended, alleging violations of section 301(a) of the federal Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), and Haw. Rev. Stat. § 342D-50(a) associated with the discharge into the nearshore ocean waters of West Maui of wastewater from injection wells operated by Defendant at the Lahaina Wastewater Reclamation Facility ("LWRF"), which is located at 3300 Honoapi'ilani Highway, Lahaina, Hawai'i 96761;

WHEREAS, Defendant maintains it has authorization under State and federal Safe Drinking Water Act permits for its four underground injection control wells that allows Defendant to discharge treated wastewater to groundwater that has a hydrological connection to navigable waters;

WHEREAS, on May 30, 2014 and January 23, 2015, the Court found that Defendant's discharges of treated wastewater from each of the LWRF injection wells without a National Pollutant Discharge Elimination System ("NPDES") permit violate the CWA;

WHEREAS, on June 25, 2015, the Court held Defendant is not immune from civil penalties because of a lack of fair notice that an NPDES permit was required;

WHEREAS, Plaintiffs and Defendant (collectively, “the Parties”) have agreed to enter into this Settlement Agreement and Order Re: Remedies (“Agreement”), without any admission of fact or law; and

WHEREAS, it is in the interest of the public, the Parties, and judicial economy to resolve the remaining issues related to remedies without protracted litigation;

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PLAINTIFFS AND DEFENDANT, AND THE COURT ORDERS AS FOLLOWS:

1. This Agreement resolves all remaining issues in the remedies phase of the above-captioned lawsuit. The effective date (“Effective Date”) of this Agreement is the date the Agreement is entered by the Court.

DEFENDANT’S RESERVATION OF RIGHT TO APPEAL

2. By entering into this Agreement, Defendant does not admit liability. The Parties agree Defendant reserves the right to appeal any and all rulings of this Court other than the entry of this Agreement, including the Court’s rulings on liability and fair notice.

3. Appeals may be made to the Court of Appeals for the Ninth Circuit and the Supreme Court.

4. Defendant's obligations under Paragraph 8 shall be triggered by this Court's entry of this Agreement. Defendant's obligations under Paragraphs 9 through 13 herein are triggered by a Final Judgment that (1) discharges of treated wastewater from any of the LWRF injection wells without an NPDES permit violate the CWA and (2) Defendant is not immune from civil penalties because of a lack of fair notice that an NPDES permit was required. For purposes of this Agreement, the phrase "Final Judgment" is defined as in the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(2)(G).

5. In the event of a remand, the Parties agree that the remedies provided for in this Agreement control and are binding, that no additional remedies shall be assessed and that this Agreement and the remedies provided herein resolve all remaining issues regarding the remedy phase of the above-captioned lawsuit. Notwithstanding the foregoing, neither Party waives its right to litigate any remanded issue(s), including a liability determination as to any well or a ruling on fair notice.

LIMITATION ON FUTURE ACTIONS PENDING APPEAL

6. From the date of execution of this Agreement through Final Judgment, Plaintiffs shall not bring any claim in any State or federal court against

Defendant seeking additional civil penalties or injunctive or declaratory relief for alleged violations under State or federal law based on the lack of an NPDES permit for the LWRF's injection wells.

7. No penalties shall accrue or otherwise be imposed in this action from the Effective Date through the Final Judgment.

NPDES PERMIT

8. Defendant shall make good faith efforts to secure and comply with the terms of an NPDES permit for the LWRF injection wells. Such good faith efforts shall include, but not be limited to, cooperating in good faith with the Hawai'i Department of Health to secure an NPDES permit, including providing additional information when requested. Defendant's obligations under this paragraph as to any well shall cease only in the event of a Final Judgment that discharges of treated wastewater from that well without an NPDES permit do not violate the CWA.

SUPPLEMENTAL ENVIRONMENTAL PROJECT

9. In the event of a Final Judgment that (1) discharges of treated wastewater from any of the LWRF injection wells without an NPDES permit violate the CWA and (2) Defendant is not immune from civil penalties because of a lack of fair notice that an NPDES permit was required, Defendant shall fund and implement one or more projects located in West Maui, to be valued at a minimum

of Two Million Five Hundred Thousand Dollars (\$2.5 million), the purpose of which is to divert treated wastewater from the LWRF injection wells for reuse, with preference given to projects that meet existing demand for freshwater in West Maui. Examples of projects that would further this purpose include, but are not limited to, expansion of the R-1 distribution system for the LWRF's treated wastewater and indirect or direct potable reuse. Projects under this Agreement shall not include projects already required to be implemented by third parties.

10. No later than thirty (30) days following the Final Judgment as provided for in Paragraphs 4 and 9, the Parties shall meet and confer (in-person not required) in a good faith effort to reach agreement on one or more projects that further the purpose set forth in Paragraph 9, which agreement shall not be unreasonably withheld. If the Parties are unable to reach agreement within sixty (60) days of the Final Judgment as provided for in Paragraphs 4 and 9, Defendant shall, within ninety (90) days thereafter, instead pay a penalty of Two Million Five Hundred Thousand Dollars (\$2.5 million) to the U.S. Treasury. If the Parties reach agreement on one or more projects that do not meet the Two Million Five Hundred Thousand Dollars (\$2.5 million) value threshold, the balance shall be paid to the U.S. Treasury (for example, if a mutually agreed-upon project is valued at \$1.5 million, with no agreement as to other projects, Defendant would submit a \$1.0 million penalty payment to the U.S. Treasury).

11. No later than two (2) years following a Final Judgment as provided for in Paragraphs 4 and 9, Defendant shall complete the design of the project(s) agreed upon pursuant to Paragraph 10. Defendant shall complete the construction of those project(s) no later than five (5) years of the Final Judgment.

12. Defendant shall provide notification to Plaintiffs in accordance with Paragraph 27 when design of the project(s) is complete and when construction is complete.

CIVIL PENALTIES

13. In the event of a Final Judgment that (1) discharges of treated wastewater from any of the LWRF injection wells without an NPDES permit violate the CWA and (2) Defendant is not immune from civil penalties because of a lack of fair notice that an NPDES permit was required, Defendant shall pay a penalty in the amount of One Hundred Thousand Dollars (\$100,000.00) to the U.S. Treasury within ninety (90) days of the Final Judgment.

DELAY IN PERFORMANCE AND STIPULATED PENALTIES

14. Unless excused due to a Force Majeure event as defined below, Defendant shall be liable for Stipulated Penalties for each day it fails to comply with any of its obligations under Paragraph 11, as follows:

- a. \$250 per day for the first 15 days;

- b. \$500 per day for days 16 to 60; and
- c. \$1,000 per day for days 61 and beyond.

15. Stipulated Penalties shall begin to accrue on the day a violation occurs and shall continue to accrue through the final day of the correction of the violation.

- a. Plaintiffs may seek Stipulated Penalties under this Section by making a written demand. Plaintiffs shall send notice to Defendant in accordance with Paragraph 27 that Plaintiffs intend to seek Stipulated Penalties and stating the basis for Plaintiffs' demand.
- b. If Defendant disputes Plaintiffs' demand for Stipulated Penalties, the Parties shall meet and confer (in-person not required) in a good faith effort to resolve the dispute. If the Parties are unable to resolve their dispute within ten (10) days after receipt of the written notice, Plaintiffs may submit the dispute to the Court for resolution. Stipulated Penalties shall continue to accrue during the Court's resolution of any dispute, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

- i. If Plaintiffs prevail in whole or in part in a Court action regarding Stipulated Penalties, Defendant shall pay all accrued penalties determined by the Court to be owing, together with interest, within thirty (30) days of receiving the Court's decision or order, except as provided in subparagraph ii., below. Defendant shall also pay Plaintiffs' costs of litigation (including reasonable attorneys' fees).
- ii. If any party appeals the District Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) days of receiving the final appellate court decision. If Plaintiffs prevail in whole or in part in an appeal regarding Stipulated Penalties, Defendant shall also pay Plaintiffs' costs of litigation (including reasonable attorneys' fees).
- c. If Defendant does not dispute Plaintiffs' demand for Stipulated Penalties, within thirty (30) days of service of the written demand, Defendant shall pay the Stipulated Penalty set forth in Plaintiffs' demand.

- d. Defendant shall pay any Stipulated Penalties by certified check or cashier's check in the amount due, payable to: Hawai'i Department of Health, Environmental Response Revolving Fund and provide timely proof of payment to Plaintiffs in accordance with Paragraph 27.

16. The payment of Stipulated Penalties shall not alter in any way Defendant's obligation to comply with the terms of this Agreement.

FORCE MAJEURE

17. A "Force Majeure event" is any event beyond the control of Defendant, Defendant's employees, consultants or contractors, or any entity controlled by Defendant, that delays or prevents the performance of any obligation under this Agreement despite Defendant's best efforts to fulfill the requirements of the Agreement and includes, but is not limited to, acts of God or war. "Best efforts" includes anticipating any potential Force Majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize to the greatest extent possible any resulting delay in fulfillment of the requirements of the Agreement. "Force Majeure" does not include Defendant's financial inability to perform any obligation under this Agreement.

18. If and to the extent Defendant is prevented from performing any of its obligations under Paragraph 11 by a Force Majeure event, while Defendant is so prevented, Defendant shall be relieved of its obligations to perform and pay Stipulated Penalties, but shall make its best efforts to continue to perform its obligations under this Agreement as far as reasonably practicable.

19. If and to the extent Defendant suffers a delay in performing as a result of a Force Majeure event, Defendant shall be entitled to a reasonable extension of time to complete performance.

20. Defendants shall provide timely notice orally or by electronic transmission as soon as practicable, after the time Defendant first knew of, or by the exercise of due diligence, should have known of, a claimed Force Majeure event.

21. Defendant shall also provide notice to Plaintiffs in accordance with Paragraph 27 within seven (7) business days of the time Defendant first knew of, or by the exercise of due diligence, should have known of, the event. The notice shall state the nature and duration of the Force Majeure event, its cause(s), the anticipated delay of performance of any obligation(s) under Paragraph 11, a schedule for carrying out those obligations, and Defendant's rationale for attributing the delay to a Force Majeure event.

22. If Defendant provides notice of a claimed Force Majeure event in accordance with Paragraphs 20 and 21, Plaintiffs shall, within a period not to exceed twenty (20) days from the date of Defendant's notice of the event, provide a response to Defendant in accordance with Paragraph 27 about whether Plaintiffs agree that a Force Majeure event has occurred. Plaintiffs "agree that a Force Majeure event has occurred" when they agree with Defendant in writing as to both the nature and duration of the event.

23. If Plaintiffs fail to provide a written response to Defendant within the twenty (20) day period provided for in Paragraph 22, Plaintiffs will have been deemed to agree with Defendant's determination that a Force Majeure event has occurred.

24. If Defendant provides notice of a claimed Force Majeure event in accordance with this Agreement and:

- a. Plaintiffs timely agree that a Force Majeure event has occurred as provided in Paragraph 22, the Parties may agree to extend the time for Defendant to come into compliance with the Agreement by making the appropriate modification via stipulation pursuant to Paragraph 32; or
- b. Plaintiffs do not agree that a Force Majeure event has occurred or fail to timely provide the response pursuant to Paragraph 22,

Defendant may, within thirty (30) days of receipt of written notice of the disagreement or the deadline for Plaintiffs' response, file a written motion with the Court seeking an extension of time to perform. If Defendant does not file a motion within that time frame, Defendant waives its claim that a Force Majeure event has occurred.

25. To prevail on any written motion under Paragraph 24(b), Defendant bears the burden of proving, by clear and convincing evidence, that any claimed Force Majeure event is a Force Majeure event, that Defendant gave the notice required by this Agreement, that the Force Majeure event caused any delay in Defendant's performance of any obligation under Paragraph 11 that Defendant claims was attributable to that event, and that Defendant exercised best efforts to avoid or minimize any delay caused by the event.

26. When Plaintiffs agree or the Court rules that a Force Majeure event has occurred that delays performance of an obligation under Paragraph 11, Defendant shall not be liable for Stipulated Penalties for the time period of the delay caused by the Force Majeure event.

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ADDRESSES FOR NOTICES, SUBMISSIONS, OTHER COMMUNICATIONS

27. Unless otherwise specified herein, whenever notifications, submissions, and/or communications are required by this Agreement, they shall be in writing, and be addressed and sent via U.S. Mail or electronic mail as follows:

To Plaintiffs, via Plaintiffs' attorney of record:

David Lane Henkin
Earthjustice
850 Richards Street, Suite 400
Honolulu, Hawai'i 96813
Phone: (808) 599-2436
E-mail: dhenkin@earthjustice.org

To Defendant, via Defendant's attorney of record:

Patrick K. Wong
Corporation Counsel
County of Maui
200 S. High Street
Wailuku, Hawai'i 96793
Phone: (808) 270-7740
Email: pat.wong@co.maui.hi.us and corpcoun@co.maui.hi.us

28. Any Party may, by written notice to the other Party, change its designated notice recipient or notice address provided above.

ATTORNEYS' FEES AND COSTS

29. Within thirty (30) days of the Effective Date, the Parties will meet and confer (in-person not required) in a good faith effort to reach agreement as to the amount of Plaintiffs' costs of litigation (including reasonable attorneys' and expert

witness fees) pursuant to Section 505(d) of the CWA, 33 U.S.C. § 1365(d), for proceedings before this Court. If the Parties are unable to reach agreement, Plaintiffs may file a motion with this Court for the recovery of fees and costs no later than sixty (60) days after the Effective Date, pursuant to Federal Rule of Civil Procedure 54(d)(2)(B).

30. Defendant shall not be required to pay Plaintiffs' attorneys' fees and costs until ninety (90) days following Final Judgment. During any appeals period, interest on any award of attorneys' fees and costs shall be calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until ninety (90) days following Final Judgment.

ENFORCEMENT OF THIS AGREEMENT

31. This Court has jurisdiction to enforce the terms of this Agreement. See Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375 (1994).

32. This Agreement may be modified by the Court upon good cause shown by written stipulation between the Parties filed with and approved by the Court.

33. In the event that either Party seeks to enforce the terms of this Agreement, including any of the deadlines for any action set forth herein, or in the event of a dispute arising out of or relating to this Agreement, or in the event that either Party believes that the other Party has failed to comply with any term or

condition of this Agreement, the Party raising the dispute, or seeking enforcement, shall provide the other Party with written notice of the claim. The Parties agree that they will meet and confer (in-person not required) at the earliest possible time in a good faith effort to resolve the claim before bringing any matter to the Court. If the Parties are unable to resolve the claim within ten (10) days after the notice, either Party may bring the claim to the Court.

ENTRY OF AGREEMENT

34. Upon the Government's confirmation of no objection to, or no action on, this Agreement within forty-five (45) days of receipt of this Agreement pursuant to 40 C.F.R. § 135.5, the Court shall enter this Agreement and enter judgment in this action. The Parties shall not withdraw their consent to this Agreement during the period of Governmental review of this Agreement without further notice; provided, however that either Party has the right to withdraw its consent to this Agreement if, prior to entry, the Court changes or the Government objects to any term or provision of this Agreement.

EPA FOIA DOCUMENTS

35. Plaintiffs agree that all EPA FOIA documents obtained by the County in response to a May 2, 2014, FOIA request that were submitted to the Court are authentic and that Plaintiffs will not challenge the authenticity of the documents.

A listing of all EPA FOIA documents that were submitted to the Court is attached hereto and incorporated herein as Exhibit A.

AUTHORIZATION TO SIGN

36. This Agreement shall apply to and be binding upon the Parties, their members, delegates, and assigns. The undersigned representatives certify that they are authorized by the Party or Parties they represent to enter into the Agreement and to execute and legally bind that Party or Parties to the terms and conditions of this Agreement.

COUNTY OF MAUI
200 South High Street
Wailuku, Maui, Hawai'i 96793

By: /s/ Alan M. Arakawa
ALAN M. ARAKAWA
Its Mayor

September 24, 2015
DATE

EARTHJUSTICE
DAVID L. HENKIN
SUMMER KUPAU-ODO
850 Richards Street, Suite 400
Honolulu, Hawai'i 96813

By: /s/ David L. Henkin
DAVID L. HENKIN
Attorneys for Plaintiffs Hawai'i Wildlife
Fund, Sierra Club – Maui Group,
Surfrider Foundation, and
West Maui Preservation Association

September 24, 2015
DATE

APPROVED AS TO FORM AND LEGALITY

By: /s/ Richelle M. Thompson
RICHELLE M. THOMSON
Deputy Corporation Counsel
Attorney for Defendant
County of Maui

September 24, 2015
DATE

DATED: Honolulu, Hawaii; November 17, 2015.



/s/ Susan Oki Mollway
Susan Oki Mollway
Senior United States District Judge

Hawai'i Wildlife Fund, et al. v. County of Maui, Civil No. 12-00198 SOM-BMK
(D. Haw.); SETTLEMENT AGREEMENT AND ~~PROPOSED~~ ORDER RE:
REMEDIES; EXHIBIT A

EXHIBIT A

<u>Date</u>	<u>Document</u>	<u>ECF Docket Entry No.</u>
May 2007	5/21/2007-5/29/2007 email string between EPA, USGS and NOAA	D.E. 190-3
Oct.-Nov. 2007	10/31/2007-11/5/2007 email string between EPA, HDOH, and USGS	D.E. 216-9
May 2008	5/1/2008 internal EPA string	D.E. 216-10
July 2008	7/25/2008-7/28/2008 email string between USGS and EPA	D.E. 190-4
Oct. 2008	10/15/2008-10/16/2008 email string between EPA and HDOH	D.E. 190-5
Dec. 2008	Action items discussed between EPA and HDOH on 12/17/2008 conference call.	D.E. 216-11
Oct. 2009	10/14/2009 email exchange between Earthjustice and EPA	D.E. 190-6
Oct. 2009	10/21/2009 EPA internal email string	D.E. 190-7
Nov. 2009	11/10/2009 EPA email to HDOH	D.E. 190-8
Nov. 2009	11/25/2009 internal EPA email	D.E. 216-12
Dec. 2009- Feb. 2010	12/8/2009-2/4/2010 internal HDOH email chain; 2/19/2010 HDOH and EPA email; 2/22/2010 internal EPA email	D.E. 216-13
Jan. 2010	1/29/2010 EPA internal email	D.E. 190-9
July 2010	7/1/2010-7/7/2010 EPA emails attaching Tracer Study Scope of Work	D.E. 190-10
Nov. 2010	<i>Planning Assistance to States Agreement</i> between Department of the Army and HDOH	D.E. 173-43
Jan. 2011	1/7/2011-1/12/2011 internal EPA email chain	D.E. 216-14
Apr. 2011	4/14/2011-4/20/2011 EPA internal email string	D.E. 190-11
Apr. 2011	4/27/2011-4/29/2011 EPA internal email string	D.E. 190-12

<u>Date</u>	<u>Document</u>	<u>ECF Docket Entry No.</u>
Apr. 2011	4/28/2011 email between EPA and HDOH	D.E. 216-15
May 2011	5/12/2011 EPA internal email transmitting a one page summary for use in an EPA discussion with Gary Gill, former Deputy Director HDOH Environmental Health Administration	D.E. 190-13
Oct.-Nov. 2011	10/31/2011-11/1/2011 EPA internal email string	D.E. 190-14
Apr. 2012	4/16/2011 EPA email to HDOH	D.E. 190-15
May 2012	U.S. Army Corps of Engineers Project Management Plan for LWRF Tracer Study (sponsored by HDOH and signed by EPA)	D.E. 173-44
Nov. 2012	11/16/2012-11/19/2012 email string between EPA and HDOH	D.E. 190-16
Nov. 2012	11/30/2012 EPA internal email	D.E. 190-17
Jan. 2013	1/23/2013 EPA email to HDOH	D.E. 194-3
May 2013	5/2/2013 EPA internal email attaching one-page LWRF update for discussions with HDOH	D.E. 194-4
Aug. 2013	8/1/2013 email string between EPA and HDOH transmitting news brief	D.E. 194-5
Oct. 2013	10/22/2013-10/29/2013 email string between EPA and HDOH; 10/29/2013 internal EPA string	D.E. 194-6
Mar. 2014	3/7/2014-3/14/2014 email string between EPA and HDOH attaching 3/7/2014 HDOH letter to the County	D.E. 194-7
May 2014	5/12/2014-5/13/2014 EPA and HDOH email string attaching draft agenda concepts	D.E. 194-8
June 2014	6/13/2014 EPA internal email	D.E. 194-9
July 2014	5/12/2011 and 7/24/2014 EPA internal emails	D.E. 190-18

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

HAWAII WILDLIFE FUND, a
Hawaii non-profit corporation;
SIERRA CLUB - MAUI GROUP, a
non-profit corporation; SURFRIDER
FOUNDATION, a non-profit
corporation; WEST MAUI
PRESERVATION ASSOCIATION, a
Hawaii non-profit corporation

Plaintiff(s),

V.

COUNTY OF MAUI

Defendant(s).

JUDGMENT IN A CIVIL CASE

Case: CV 12-00198 SOM-BMK

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

November 17, 2015

At 2 o'clock and 48 min p.m.
SUE BEITIA, CLERK

- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came for hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment is entered pursuant to, and in accordance with the following orders and the Settlement Agreement filed on November 17, 2015:

- “Order Denying Defendant’s Motion for Stay and Granting Plaintiffs’ Motion for Partial Summary Judgment” filed May 30, 2014;
- “Order Granting Plaintiffs’ Motion for Partial Summary Judgment and Denying Defendant’s Motion for Partial Summary Judgment” filed January 23, 2015;

- “Order Denying Defendant’s Motion for Summary Judgment Based on Lack of Fair Notice and Granting Plaintiffs’ Motion for Partial Summary Judgment Regarding Civil Penalties” filed June 25, 2015 and
- “Settlement Agreement and Order Re: Remedies; Exhibit A” filed November 17, 2015.

November 17, 2015

Date

SUE BEITIA

Clerk

/s/ Sue Beitia by ET

(By) Deputy Clerk