

	<p>Press Release # 004-25 CITY OF MARATHON 9805 Overseas Highway Marathon, Florida 33050 305 743 0033</p>
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FOR IMMEDIATE RELEASE:

Update Concerning Wastewater Deep Injection Well Construction and Implementation

MARATHON, FL., 9/10/2025 - On December 12, 2023, the Marathon City Council unanimously approved a settlement agreement after two years of difficult and costly litigation with a group known as FOLKS (Friends of the Lower Keys).

Background: Resolution of Litigation

The city's current wastewater treatment and disposal system was approved, funded, permitted, constructed, and put into service in 2010. It has met strict Advanced Wastewater Treatment nutrient standards since the system began service such that 90% to 95% of influent nutrients are eliminated from the effluent stream.

In 2020, a case known as "County of Maui, Hawaii v. Hawaii Wildlife Fund, et. al." concluded at the U.S. Supreme Court. The case revolved around the potential impacts of Maui's elimination of wastewater effluent through shallow disposal wells on adjacent navigable waters as defined in the federal Clean Water Act. The County of Maui lost the case. The case solidified a standard question in the permitting of wastewater disposal systems: Is the disposal process the "functional equivalent" of a direct discharge to navigable waters?

The FOLKS lawsuit was filed in 2022 in the U.S. District Court for the Southern District of Florida. It used the conclusions in the Maui case and alleged violations of the federal Clean Water and Endangered Species acts. Both parties reached a mutually acceptable settlement in late 2023 to construct a deep well transmission and disposal system.

The city did not lose the case. The city did not agree to the legal premises of FOLKS' allegations in the case. The city did agree to settle the case rather than pursue further costly litigation.

Pros and Cons

The pros in the settlement agreement will mean that:

- All nutrients remaining in the city's wastewater effluent will be eliminated
- Introduction of pharmaceutical products and forever chemicals will be eliminated

The cons are that building the system will be expensive.

Council's Decision Process (2022-2023)

The city has proven that the use of shallow injection wells does not constitute the "functional equivalent" of a direct discharge of wastewater effluent to navigable waters. The City Council's decision to settle was based on careful deliberation across more than four key meetings, review of the results of multiple technical investigations measured against the "functional equivalent" standard, and the recommendations of its expert legal counsel well versed in the Maui case.

Legal Representation

During the litigation, the city was represented by:

- Holtzman Vogel
 - Gary Perko
 - David Childs
 - Michael Beato
 - Mohammad Jazil
- Cole Scott, Kissane, P.A.
 - Dean O. Meyers
- Gunster
 - Eric Olsen

Technical Representation

- Water Sciences Associates
 - W. Kirk Martin
 - Michael Alfieri

Staff Representation

- City of Marathon, Florida
 - George Garrett, city manager
 - Steve Williams, city attorney
 - Dan Saus, utilities director

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