

GET Committee

From: Adam Link <alink@casaweb.org>
Sent: Thursday, May 16, 2019 1:06 PM
To: GET Committee
Subject: GET-26 - Hawaii Wildlife v. County of Maui

GET Committee,

My name is Adam Link and I am with the California Association of Sanitation Agencies (CASA). We are a nonprofit trade association representing more than 120 local public wastewater agencies in the State of California.

We are also an amicus in the Hawaii Wildlife Fund, et al v. County of Maui litigation dealing with whether the Clean Water Act requires a permit when pollutants originate from a point source but are conveyed to navigable waters by a nonpoint source, such as groundwater. CASA has been supporting the County's case as amicus since it first went to the 9th Circuit. I understand that the County is considering settling and dismissing its case before it is heard by the U.S. Supreme Court. While I understand the County must do what is in its best interests, I implore you to reconsider that course of action and think about the precedent it will set for other public wastewater agencies across the country.

If allowed to stand, this case could have significant negative implications for public infrastructure including many of CASA's member agencies. The current ruling could call into question existing law, standards and liabilities on issues such as exfiltration and responsibilities related to groundwater, and would completely undermine permitting certainty in the NPDES program. This is especially true for those agencies located in the 9th Circuit (like us), where the nebulous standard and questionable rationale used by that court would now be the law of the land.

We work on behalf of public agencies like yours, whose focus and goal is to protect public health and the environment. Our agencies are concerned that without a hearing at the U.S. Supreme Court, this case will result in the improper regulation of discharges to groundwater that would be detrimental to their ability to provide services to the public. This is why the continuation of the case and a chance for a full hearing at the Supreme Court is a high priority for us.

If you have any questions or want to discuss the potential implications of the case, I am happy to answer them or refer you to our amicus counsel in the case. Thank you for your consideration.

- Adam Link

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