

## GET Committee

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**From:** Jon Nishimura <jnishimura@fukunagaengineers.com>  
**Sent:** Thursday, May 16, 2019 12:02 PM  
**To:** GET Committee  
**Cc:** Michael.victorino@mauicounty.us; Kelly King; Keani N. Rawlins; Tasha A. Kama; Riki Hokama; Alice L. Lee; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura; Richelle Thomson (Richelle.Thomson@co.maui.hi.us); Eric Nakagawa  
**Subject:** GET-26 - Hawaii Wildlife v. County of Maui  
**Attachments:** Maui UIC Testimony-FAINC-GET.pdf

Please find attached written testimony from Fukunaga & Associates, Inc. for the upcoming agenda item GET-26 – Hawaii Wildlife v. County of Maui.

Please contact me if you have any questions.

Regards,

**Jon Nishimura**

**Fukunaga & Associates, Inc.**

**1357 Kapiolani Blvd. Suite 1530**

**Honolulu, Hawaii 96814**

**Phone: (808) 944-1821**

**Fax: (808) 946-9339**

**website: [www.fukunagaengineers.com](http://www.fukunagaengineers.com)**

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**FUKUNAGA & ASSOCIATES, INC.**  
CONSULTING ENGINEERS

May 16, 2019

Governance, Ethics and Transparency Committee  
Maui County Council  
County of Maui

Submitted via email: [Get.committee@mauicounty.us](mailto:Get.committee@mauicounty.us)

**Subject: GET-26 - Hawaii Wildlife v. County of Maui**

Fukunaga & Associates, Inc. is a Hawaii based Civil Engineering firm that has been heavily involved in water and wastewater engineering projects throughout the State of Hawaii. One of our primary goals that we apply to our projects is to develop engineering solutions that will protect the public health and environment. Most of our projects are performed for Government agencies (Federal, State and County) and we are involved in several of the County of Maui's Wastewater Reuse Projects. All of the government agencies we work with and especially Maui County's Wastewater Reclamation Division (WWRD) are fully committed to protect our State's environment – specifically its receiving waters.

Regarding Maui's wastewater collection, treatment and reuse systems, please understand that these facilities are there to serve the public by managing, processing and disposing (or reusing) the public's wastewater. The County often has very little control on the when, how much or where the wastewater is generated, and so is somewhat at the mercy of the public actions, as well as weather conditions. (i.e., Wet weather increases that amount of flow that comes into the system and also impairs the amount of reuse water that can be used, typically for irrigation.) As design engineers, we can generally establish design flows based on historic records, with the goal of reusing as much of the treated effluent as possible. We are most familiar with the Lahaina and Kihei systems and know that the treatment plants are capable of processing wastewater to the highest effluent quality classification established by the State Department of Health (DOH) – "R-1 Water" (wastewater that is biologically treated, filtered and disinfected.) The County is aggressively trying to expand its reuse water transmission and distribution system with the goal of safely utilizing 100% of its high-quality effluent. However, there are situations where not all of the water can be reused even when the system is expanded. For example, the amount of wastewater generated by the public may exceed the customers' reuse capability. This can be further exacerbated during wet weather conditions when incoming flows increase and the reuse customers cannot take the effluent. In those cases, the County really has very little control to use alternative disposal or flow management options. Currently, the most viable option is to discharge the high-quality effluent into the County's permitted injection wells.

As design engineers, whenever we develop systems, we must always try to provide backup options, in case of unanticipated conditions – power outages, mechanical breakdowns, wet weather conditions, etc. If there are situations where the effluent cannot be reused through normal design treatment process, there must be an alternative to relieve the wastewater flows. Not accepting any wastewater flows into the treatment plant is not an option – this alternative would be to have sewage overflowing in the streets, or backup into homes and businesses. A rigid ban to not use the injection wells, or other subsurface disposal facility would probably cause more harm to public health. A reasonable compromise is to utilize a monitoring and reporting process that discloses the amount of effluent that is discharged into the injection well and provide backup information as to why the injection wells had to be used. I believe there is a similar system already being applied – including regular reporting to the State DOH.

The County's wastewater reclamation facilities and others in the state are already highly regulated. The Lahaina facility is further regulated under the Underground Injection Control Program, which is under Hawaii Revised Statutes (HRS) 340E. Other Hawaii state laws that regulate uses and programs such as cesspools, septic systems, advanced treatment units, recycled water use on land can be found in HRS 340E, 342D, and 342E, and the related administrative rules.

The Federal Clean Water Act's NPDES permitting program would be difficult if not impossible to apply to these uses and programs. Personally, I believe the U.S. Supreme Court's clarity on this matter is necessary in order that our engineering firm, as well as the regulated entities, have a clear understanding of the legal requirements.

Please feel free to contact me if you have any questions. Thank you for this opportunity to submit this testimony.

Very truly yours,

FUKUNAGA & ASSOCIATES, INC.



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Jon K. Nishimura, P.E.  
President