

GET Committee

From: Mindy Morizumi <Mindy.Morizumi.75628732@p2a.co>
Sent: Sunday, September 01, 2019 9:49 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Mindy Morizumi and I live in Lahaina, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Mindy Morizumi
1625 Aa Street
Lahaina, HI 96761

GET Committee

From: tejeroy@everyactioncustom.com on behalf of Teje Roy
<tejeroy@everyactioncustom.com>
Sent: Sunday, September 01, 2019 9:23 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is _____ and I am a resident of _____. I care about this issue because _____.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Teje Roy
192 Mehani Cir Kihei, HI 96753-8072
tejeroy@hawaii.edu

GET Committee

From: 333cory@everyactioncustom.com on behalf of Cory Harden
<333cory@everyactioncustom.com>
Sent: Sunday, September 01, 2019 8:56 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Cory Harden and I am a resident of Hilo. I care about this issue because we can't get a new ocean.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

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Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Cory Harden
Hilo, HI 96720
333cory@gmail.com

GET Committee

From: Mark Enomoto <Mark.Enomoto.45449491@p2a.co>
Sent: Sunday, September 01, 2019 6:38 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Mark Enomoto and I live in Honolulu, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

Maui County stop being "pilau" and lazy. Thinking that out of sight and out of mind is putting it on our children and future generations to deal with our generation's lazy and frankly pilau ways of living is shameful. We need to clean up our act from mauka to makai and face that fact that our resources are not endless. That poop and waste do not just disappear when you bury them or pump them into the ground or offshore. Shame. If the excuse is, "Oh it will cost too much money" even more shame to put a price tag on the planet that our children and their children will inherit from us. Stop the lazy and pilau practice and start doing the right thing for Maui, for Hawai'i, for the country and for the island planet called Earth that we all inhabit.

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Mark Enomoto
1717 Uhi PL
Honolulu, HI 96821

GET Committee

From: kthagan@everyactioncustom.com on behalf of Kevin Hagan
<kthagan@everyactioncustom.com>
Sent: Sunday, September 01, 2019 5:22 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Kevin Hagan and I am a resident of Paia. I care about this issue because I moved to Maui due to my love of the ocean. I play in the ocean every day.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Kevin Hagan
2455 Waipua St Paia, HI 96779-9749
kthagan@yahoo.com

GET Committee

From: herminehaha@everyactioncustom.com on behalf of Hermine Harman
<herminehaha@everyactioncustom.com>
Sent: Sunday, September 01, 2019 4:59 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is ___Hermine Harman __ and I am a resident of ____Kihei I care about this issue because ___pollution is destroying our oceans ___.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Hermine Harman
3246 Kehala Dr Kihei, HI 96753-9327
herminehaha@yahoo.com

GET Committee

From: pauldoty26@everyactioncustom.com on behalf of Paul Doty <pauldoty26@everyactioncustom.com>
Sent: Sunday, September 01, 2019 4:17 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is _____ and I am a resident of _____. I care about this issue because _____.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Paul Doty
110 Makawao, HI 96768
pauldoty26@yahoo.com.au

GET Committee

From: Jody Smith <Jody.Smith.225221178@p2a.co>
Sent: Sunday, September 01, 2019 3:25 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Jody Smith and I live in Honolulu, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

Aloha! I love clean oceans, don't you? Do the right thing and drop this antiquated and ineffective waster water treatment system and invest in technology that works! Hawai'i deserves the best and Maui should lead the way.

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Jody Smith
500 Lunalilo Home Rd
Honolulu, HI 96825

GET Committee

From: mginfinity8@everyactioncustom.com on behalf of Marci Gutt <mginfinity8@everyactioncustom.com>
Sent: Sunday, September 01, 2019 3:17 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is __marci__ and I am a resident of __Maui__ care about this issue because __clean water is important for all life. Our oceans, citizens and wildlife must be respected.__.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Marci Gutt
1257 Hihimanu St Kihei, HI 96753-6931
mginfinity8@gmail.com

GET Committee

From: julietbdoty@everyactioncustom.com on behalf of Juliet Doty
<julietbdoty@everyactioncustom.com>
Sent: Sunday, September 01, 2019 3:07 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Juliet Doty and I am a resident of Maui. I care about this issue because I swim in the ocean nearly everyday. The reefs have changed significantly

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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Sincerely,
Juliet M Doty

Sincerely,
Juliet Doty
110 Haahaa St Makawao, HI 96768-8854
julietbdoty@gmail.com

GET Committee

From: P. Denise La Costa <pdenise@lacostarealtyhawaii.com>
Sent: Sunday, September 01, 2019 2:52 PM
To: GET Committee
Subject: Injection wells

To approve this is a terrible idea. The current administration has already got it most of the environmental protections for the United States of America. If this is heard by the Supreme Court, I will have implications for reaching outside of Maui ¹. Our oceans are too precious to let this move forward. This pollution must stop and I can't stop with you. Malama O Ke Kai. Mahalo Nui.

Sent from my iPhone with Aloha,

P. Denise La Costa RB#17578
(808) 280-2132. CALL OR TEXT
Principal Broker-Owner
La Costa Realty Hawai'i, LLC RB#18349
Accredited Buyers
Representative (ABR)
Short Sale Resource (SRS)
pdenise@lacostarealtyhawaii.com
2013 President Realtors Assn of Maui
2015-2016 Hawai'i State Chair RPAC
2017-2018 President Maui Commercial Roundtable

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GET Committee

From: Rosita Aranita <Rosita.Aranita.8550183@p2a.co>
Sent: Sunday, September 01, 2019 2:43 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Rosita Aranita and I live in Honolulu, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

We need water to maintain our health. Keep our water clean and unpolluted by chemicals such as pfas

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Rosita Aranita
1735 Ala Aolani St
Honolulu, HI 96819

GET Committee

From: tnelson002@hawaii.rr.com
Sent: Sunday, September 01, 2019 2:38 PM
To: GET Committee
Subject: Hawaii Wildlife v. County, GET-26

Testimony for Hawaii Wildlife v. County, GET-26

I request that the County let the legal process proceed in this matter. The Supreme Court is the institution created to interpret the law. It appears that the plaintiffs have a strong suspicion that the lower court's interpretation of the law is incorrect, or they wouldn't fear the process of obtaining the correct interpretation from the Nation's highest court. The plaintiffs *wish* the law would be interpreted in the way they want and fear that a judgment by the Supreme Court in favor of the county could "decimate" the Clean Water Act. The Court doesn't "decimate" laws; they provide the correct legal interpretation. Keeping the current interpretation of the Clean Water Act could have far-reaching consequences as elicited by the Acting Chief of the county Department of Environmental Management's Wastewater Reclamation Division. The Mayor has committed to recycle the wastewater, in an orderly fashion, to eliminate the need for injection wells. The EPA spokesperson said that the Clean Water Act is best read as excluding the releases in this case from NPDES coverage.

The concerns of the plaintiffs as related to Maui County will be addressed by the county engineering staff without burdening future generations with a misinterpretation of the Clean Water Act.

I respectfully request that the county allow the legal process to do what it is designed to do.

Thomas A. Nelson, P.E., D. Engr.
Kihei

GET Committee

From: Rosemary Griffith <Rosemary.Griffith.7026951@p2a.co>
Sent: Sunday, September 01, 2019 12:34 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Rosemary Griffith and I live in Kailua, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

I am shocked to hear this practice still continues. This is one clear way that we can fight for the health of our reefs and ocean. DO THE RIGHT THING!!!

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

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Regards,
Rosemary Griffith
1132 Ilikala Pl
Kailua, HI 96734

GET Committee

From: Janet Taylor <Janet.Taylor.40027160@p2a.co>
Sent: Sunday, September 01, 2019 12:32 PM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Janet Taylor and I live in Pāhoā, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

Please keep the water clean for future generations!

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

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Regards,
Janet Taylor
12-111 Kipuka St. Pahoā, HI
Pāhoā, HI 96778

GET Committee

From: 4uhane@everyactioncustom.com on behalf of Carla Hess
<4uhane@everyactioncustom.com>
Sent: Sunday, September 01, 2019 12:07 PM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is _____ and I am a resident of _____. I care about this issue because _____.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Carla Hess
95 Mokuahi St Makawao, HI 96768-8961
4uhane@gmail.com

GET Committee

From: rtb808@everyactioncustom.com on behalf of Randal Bartlett <rtb808@everyactioncustom.com>
Sent: Sunday, September 01, 2019 11:50 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Randy Bartlett and I was a resident of Maui for 28 years. I care about this issue because my son was born & raised on Maui and we used to swim weekly in the waters near the Lahaina Injection Well at Ka'anapali North Beach.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Randal Bartlett
475 Atkinson Dr Apt 709 Honolulu, HI 96814-4714 rtb808@gmail.com

GET Committee

From: denise Colgrove <denise.Colgrove.39639415@p2a.co>
Sent: Sunday, September 01, 2019 11:10 AM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is denise Colgrove and I live in Hilo, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

Protect bears ears national monument.

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
denise Colgrove
12 Machida Ln
Hilo, HI 96720

GET Committee

From: Denise Antolini <Denise.Antolini.225104385@p2a.co>
Sent: Sunday, September 01, 2019 10:39 AM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Denise Antolini and I live in Haleiwa, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

Dear Maui County Council Members, Friends,

I appreciate your serious reconsideration of this case. My view, based on 30 years of experience with the Clean Water Act, primarily in Hawaii, is that the majority who will likely write the opinion for the US Supreme Court will take the opportunity to regress the Clean Water Act and definitely not do any favors for Maui or Hawaii. A sensible settlement will help us "Keep Hawai'i Hawai'i," allow the islands to make decisions for ourselves, and aim for cleaner ocean water that helps everyone. A SCOTUS opinion that reverses the 9th Circuit will be a giant step backwards, not just for Hawaii but nationally. The risks of an adverse US Supreme Court decision are huge and then "the Maui case" would forever sit in the law books, be exploited by those forces who would be eager to undermine the Clean Water Act, and stain the reputation of our islands for sustainability. Please kokua. Mahalo nui loa, Denise Antolini

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Denise Antolini
59-463 Alapio Rd
Haleiwa, HI 96712

GET Committee

From: Allison Saunders <Allison.Saunders.102830619@p2a.co>
Sent: Sunday, September 01, 2019 9:49 AM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Allison Saunders and I live in Honolulu, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Allison Saunders
1642 Laukahi St
Honolulu, HI 96821

GET Committee

From: lionel@everyactioncustom.com on behalf of Lee Eisenstein
<lionel@everyactioncustom.com>
Sent: Sunday, September 01, 2019 8:50 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Lee Eisenstein and I am a voting resident of Maui.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Lee Eisenstein
80 PO Kahului, HI 96732
lionel@cruzio.com

GET Committee

From: Elizabeth OConnor <Elizabeth.OConnor.225094756@p2a.co>
Sent: Sunday, September 01, 2019 8:37 AM
To: GET Committee
Subject: RE: 9/3/19 GET meeting; GET-26: It's time to make the pono choice and withdraw the attack against th

Dear Maui County GET Committee,

Hi, my name is Elizabeth OConnor and I live in Honolulu, Hawaii. I am submitting this testimony for the September 3, 2019 committee meeting on item GET-26 (settlement in Hawai'i Wildlife Fund, et al., v. County of Maui).

As a resident of Hawai'i, I urge you to withdraw the appeal to the Supreme Court, focus on solutions for wastewater pollution, and stop the damage to priceless ocean and reef resources. The county should invest in Maui's future by building the necessary infrastructure to reuse the Lahaina facility's treated wastewater for irrigation, which is a true "win-win" solution. In contrast, destroying the law to advance the county's "right to pollute" the ocean is a "lose-lose" for both the county and the people.

We need Maui County's elected representatives to show leadership and turn this situation around. It's time to stop the reckless attack on the law and focus on building a responsible wastewater system of the future at the Lahaina facility.

We don't want Maui to do the dirty work with the Trump administration for our nation's worst polluters by dismantling the nation's bedrock clean water law.

We need your help before Maui County goes down in history as the champion for water pollution in the United States. Please, create a lasting, positive legacy by focusing on the solutions for this pollution problem and upholding—not destroying—the legal protections of clean water for Maui, Hawai'i, and the entire nation.

Regards,
Elizabeth OConnor
430 Keoniana St
Honolulu, HI 96815

GET Committee

From: Aurora.crispin@everyactioncustom.com on behalf of aurora crispin
<Aurora.crispin@everyactioncustom.com>
Sent: Sunday, September 01, 2019 8:34 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is _____ and I am a resident of _____. I care about this issue because _____.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

Settling the case would end a detrimental challenge against the Clean Water Act and allow the County to avoid further penalties as long as it diligently works toward solutions. The Department of Health has already made clear that private cesspools and septic tanks would not need to get NPDES permits, so there is no risk to individual homeowners.

However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
aurora crispin
Lahaina, HI 96767
Aurora.crispin@gmail.com

GET Committee

From: lberg@everyactioncustom.com on behalf of Lisa Berg
<lberg@everyactioncustom.com>
Sent: Sunday, September 01, 2019 7:04 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Lisa Berg and I am a resident of Maui. I care about this issue because the ocean is our life and our reefs are dying

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Lisa Berg

3691 Lower Honoapiilani Rd Apt 116 Lahaina, HI 96761-4303 lberg@sonic.net

GET Committee

From: lschattenburg@everyactioncustom.com on behalf of Lisa Schattenburg-Raymond <lschattenburg@everyactioncustom.com>
Sent: Sunday, September 01, 2019 6:45 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Lisa Schattenburg-Raymond, and I am a resident of Kula. I care about this issue because we must face and solve the problems that impact our environment and our lives. Our reefs protect our shores and are vital to our sustainability.

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Lisa Schattenburg-Raymond
740 Copp Rd Kula, HI 96790-7932
lschattenburg@gmail.com

GET Committee

From: lookitsangelica@everyactioncustom.com on behalf of Angelica Ng
<lookitsangelica@everyactioncustom.com>
Sent: Sunday, September 01, 2019 12:45 AM
To: GET Committee
Subject: Testimony in SUPPORT of resolution CC-19-178 re: settling the Lahaina Injection Wells lawsuit

Dear Maui County GET Committee,

My name is Angelica and I am a resident of Maui. I care about this issue because I am a human being that cares about humanity and the healthy future of this beautiful planet we call home. Polluting the water is a death sentence. Just because you might not be alive to witness how lack of clean water will affect all of Earth's inhabitants how can you feel right supporting something that will negatively affect the future generations of your own family? Do your actions honestly feel good & right in your heart?

I am writing in support of Maui County settling the Lahaina Injection Well case (HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI, RELATING TO THE CLEAN WATER ACT).

Both the Hawai'i district court and Ninth Circuit appeals court have already ruled that the County must get a permit under the Clean Water Act to continue discharging treated wastewater into the groundwater via the Lahaina injection wells. I ask the County to withdraw its appeal and work with state and community stakeholders to modernize the treatment facility and invest in water reuse solutions.

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However, if the County continues its appeal, it threatens to gut the federal Clean Water Act. If the County wins the case at the Supreme Court, polluters across the United States would be free to contaminate water bodies as long as they release their waste from a pipe just short of the waters' edge or into the ground. The Trump Administration and industrial polluters like pipeline companies, the oil and gas industry, manufacturers, coal-burning utilities, and mining associations are all hoping that you will continue the appeal. As elected officials, I hope you will do the right thing, not for the Trump Administration and industrial polluters, but for public trust waters and present and future generations in Maui and all of Hawai'i.

Maui County has a history of being leaders in environmental protection, and you can uphold this reputation and continue this legacy by withdrawing the appeal. Please help to uphold the Clean Water Act and protect Maui's reefs, which not only provide many economic benefits, but hold cultural and environmental significance for all of Hawai'i. I ask you to support the settlement of the Lahaina Injection Wells case and withdrawal of the appeal.

Sincerely,
Angelica Ng
Makawao, HI 96768
lookitsangelica@yahoo.com

GET Committee

From: Jenifer Jenkins <jeniferjk@oha.org>
Sent: Sunday, September 01, 2019 12:29 AM
To: GET Committee
Subject: Memo Hawaii Wildlife Fund
Attachments: DRAFT TESTIMONY Maui Supreme Court Appeal 8302019 jj wt.docx

Aloha,

Attached is the September 3rd testimony for the Government, Ethics, and Transparency Committee regarding Maui's appeal of Hawai'i Wildlife Fund 9th Circuit decision.

Mahalo,

Jenifer Jenkins

Public Policy Advocate - Office of Hawaiian Affairs

Phone: 808-861-7552



Administrative Testimony

Testimony of Sylvia Hussey, Ed.D.
Ka Pouhana Kūikawa, Interim Chief Executive Officer

County of Maui
County Council
Government, Ethics, and Transparency Committee
GET-26

Hawai'i Wildlife Fund, et. al. v. County of Maui, Civil No. 12-00198 SOM BMK, U.S. Supreme
Court Docket 18-260

September 3, 2019

9:00 a.m.

Council Chamber

The Administration of the Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on GET-26, regarding the county's appeal of *Hawai'i Wildlife Fund, et. al. v. County of Maui (Hawai'i Wildlife Fund)*. **OHA is deeply concerned that a successful appeal of the Ninth Circuit decision in *Hawai'i Wildlife Fund* may undermine years of case law and agency interpretation relating to the protections of the Clean Water Act (CWA), and may carry serious unintended consequences for the health of culturally significant nearshore resources in West Maui, throughout the islands, and beyond.** Accordingly, OHA believes that the interests of Maui and Hawai'i residents, including Native Hawaiians in particular, would be best served by complying with the provisions of the CWA, rather than pursuing a United States Supreme Court appeal of the Ninth Circuit's sound decision.

- 1. The interests of Native Hawaiians on Maui and throughout Hawai'i would be best served by complying with the provisions of the CWA, rather than pursuing a United States Supreme Court appeal of *Hawai'i Wildlife Fund*.**

It is OHA's statutory kuleana to assess policies and practices impacting Native Hawaiians and to advocate on behalf of its Native Hawaiian beneficiaries. **Accordingly, OHA has a substantial interest in addressing the unregulated discharge of wastewater into our coastal areas, which may have particular direct and indirect impacts on OHA's beneficiaries.** For example, Native Hawaiians depend upon the availability of abundant natural resources to maintain their traditional and customary and subsistence practices; wastewater pollution may, directly and indirectly, result in the decimation of nearshore resources to an extent that forecloses the continuation of such practices. The harm caused to endangered native species, such as honu, and their coastal habitats may also foreclose the future use of such species in Native Hawaiian traditional and customary practices. Elevated levels of chemicals, nutrients, and other pollutants found in improperly discharged wastewater may similarly impact practitioners' ability or willingness to harvest, use, and consume nearshore resources generally,

thereby further inhibiting the perpetuation of Native Hawaiian cultural practices and lifestyles. Such water pollution may in itself undermine the cultural integrity of resources and areas considered particularly special or even sacred in Hawaiian beliefs. Notably, as illustrated by *amicus curiae* briefs filed in response to the appeal of *Hawai'i Wildlife Fund*, the interests of Native Hawaiians in the health and well-being of the nearshore environment are not inconsistent with that of other indigenous communities who maintain a close cultural connection to and dependence upon the natural resources of their respective places.

OHA therefore urges the Committee to consider the significant threats posed by a U.S. Supreme Court decision that could lessen the longstanding protections of the CWA over wastewater discharges, to Native Hawaiians as well as other indigenous communities throughout the United States. In *Hawai'i Wildlife Fund*, the Ninth Circuit Court of Appeals held that Maui County “could not under the Clean Water Act (CWA) build an ocean outfall to dispose of pollutants directly into the Pacific Ocean without an NPDES permit.” The court’s decision was based on strong precedent from the Ninth Circuit,¹ case law from two other courts of appeals,² and Justice Scalia’s opinion in *United States v. Rapanos*, 547 U.S. 715, 743 (2006), recognizing that the injection well disposal of wastewater indirectly but irrefutably into navigable waters is tantamount to a direct discharge requiring compliance with the CWA’s NPDES protections. **In other words, the Ninth Circuit decision only affirmed longstanding legal precedent that would require the county to comply with the CWA, and mitigate the pollution impacts of its injection wells on nearshore resources and areas that are of particular importance to Native Hawaiians.** If Maui County prevails in its appeal of the Ninth Circuit decision, the unregulated disposal of municipal wastewater will only continue to impact the culturally significant nearshore resources and environment of West Maui. Moreover, all discharges of wastewater into coastal or other navigable waters of the United States via injection wells, irregardless of documented environmental impacts, may escape the protections and requirements of the CWA. This, in turn, may result in severe unintended consequences for the health of culturally invaluable nearshore and groundwater resources not just in West Maui, but throughout the islands, and across the United States.

OHA notes the concerns raised by some testifiers regarding the perceived practical challenges of applying the NPDES process to the injection wells at issue in *Hawai'i Wildlife Fund*. However, as 32-year U.S. Environmental Protection Agency Protection Agency (EPA) veteran Dr. Wendy Wiltse reasoned in her testimony before this Committee, **“The notion that [an NPDES] permit is difficult and not formulaic is not a reason to avoid NPDES. . . . EPA has offered multiple times to provide technical assistance to help [the state Department of Health] prepare an NPDES permit for [the Lahaina Wastewater Reclamation Facility]”**; Dr. Wiltse’s testimony also highlighted the extensive existing studies, data, and other prior work that can assist the county and the state Department of Health in developing an NPDES permit tailored

¹ *Greater Yellowstone Coalition v. Lewis*, 628 F.3d 1143, 1152-53 (9th Cir. 2010) (concluding that a point source does not need to convey pollutants directly into navigable waters in order to fall under the CWA).

² *Concerned Area Residents for the Env't v. Southview Farm*, 34 F.3d 114, 119 (2d Cir. 1994); *Sierra Club v. Abston Constr. Co.*, 620 F.2d 41, 45 (5th Cir. 1980).

specifically for Maui's injection wells.³ Accordingly, compliance with the CWA and its NPDES permit requirements are clearly not insurmountable, and would only further serve the interests of Maui county and its Native Hawaiian residents, in finally addressing the known and growing impacts of the county's injection wells on the nearshore environment.

Accordingly, in light of the particular and myriad interests of Native Hawaiians in the health and vitality of nearshore resources in West Maui and throughout Hawai'i; the threats posed by a successful Supreme Court appeal of *Hawai'i Wildlife Fund* to such interests, as well as to those of other indigenous communities throughout the United States; and the cultural and environmental benefits that would be realized by applying the NPDES process to injection well discharges into Maui's waters; OHA urges to Committee and the county to reconsider the county's appeal of *Hawai'i Wildlife Fund*, and to instead work towards complying with the CWA and addressing the natural and cultural impacts of the county's municipal injection well system.

2. There are numerous broader benefits of withdrawing the county's appeal to the U.S. Supreme Court, and addressing longstanding concerns regarding its municipal wastewater system.

In addition to the interests of Native Hawaiians, OHA notes that a withdrawal of the county's appeal and the application of the NPDES process to its injection wells would also serve the broader interests of the county and its residents.

For example, the reputation of Maui's coastlines as among the most pristine on Earth attracts tourists from around the world, thereby helping to sustain Hawai'i's current economy. **A withdrawal of the county's *Hawai'i Wildlife Fund* appeal and a concurrent commitment to comply with the CWA and mitigate coastal injection well pollution would both protect and enhance Maui's reputation as a desirable travel destination.**

More substantively, better protecting Maui's nearshore ecosystems from the stressors of unregulated wastewater discharges will also enhance their resilience to the looming impacts of climate change and a growing human population.⁴ Given the immeasurable economic, cultural, subsistence, recreational, aesthetic, and scientific value of Maui's nearshore environment to its residents, **any wastewater management measure undertaken to comply with the Ninth Circuit ruling and increase the resilience of Maui's coastal waters would represent a much-needed, long-term investment in the overall health, well-being, and self-sufficiency of Maui's current and future generations.** Conversely, the long-term costs of a highly degraded nearshore environment resulting from the continued unregulated discharge of

³ As indicated in Dr. Wiltse's testimony, the NPDES process would also be necessary to address the specific environmental impacts of particular concern to Native Hawaiians, as any applicable provisions of the Safe Drinking Water Act would also "not address protection of surface waters or the aquatic life that lives in waters the injected chemicals may reach." See Testimony from Wendy Wiltse 05-16-2019, <https://mauicounty.legistar.com/View.ashx?M=F&ID=7669496&GUID=9201B98F-E2F7-4BF5-8A10-9C502BFB3A29>.

⁴ Isabelle M. Côté & Emily S. Darling, *Rethinking Ecosystem Resilience in the Face of Climate Change*, 8 PLOS BIOLOGY 7, 1 (July 27, 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2910654/pdf/pbio.1000438.pdf>.

injection well wastewater may far overshadow the \$4.3 million taxpayer money already expended in pursuit of Maui's appeal, a figure that will only continue to grow unless and until the appeal is withdrawn.⁵

3. Individual NPDES permits should not be required for individual cesspools and septic tanks under *Hawai'i Wildlife Fund*.

OHA understands that concerns have been raised that the Ninth Circuit decision in *Hawai'i Wildlife Fund* would somehow now require individual NPDES permits for cesspools, septic tanks, and other on-site wastewater disposal systems that currently service residential properties throughout Maui and across the state. **However, such concerns do not appear to be reflected in past agency practices, under existing laws, and in express statements made on this matter by the state Department of Health, which OHA understands has unequivocally stated that existing cesspools and septic tanks will not be required to obtain NPDES permits.**⁶

Notably, even if there is an unprecedented and highly unlikely determination that NPDES requirements should now be applied to all or some of the cesspools or septic tanks in Maui or elsewhere, there has been no reason presented as to why a general permit could not be issued by the EPA to cover these wastewater systems categorically, without requiring individualized permits.⁷ Such a general permit or permits would greatly reduce the administrative burden and individualized costs associated with NPDES requirements, such as by authorizing discharges from a category of point sources within a specified geographic area, subject to reasonable conditions developed with practical considerations and limitations in mind.⁸ A septic tank or cesspool owner concerned about the possibility of their wastewater system being definitively and individually traced to a discharge in navigable waters could simply submit a notice of intent to be bound by such a general permit developed by the EPA and the state, avoiding the burdens associated with individualized NPDES permit applications.⁹ In some cases, once a general permit is issued, covered entities do not need to take any further action to achieve compliance with the CWA, besides adhering to general permit conditions.¹⁰ **Accordingly, while OHA appreciates the nature of the concerns regarding individual NPDES permit requirements for residential wastewater systems, the negligible risks of such concerns**

⁵ Robert Weltman, Lahaina Injection Wells Frequently Asked Questions (Aug. 15, 2019), <http://mauisierraclub.org/lwrf-faq/>.

⁶ Nathan Eagle, *Maui is Taking This Clean Water Legal Fight All the Way – Some Say Too Far*, HONOLULU CIVIL BEAT (Aug. 6, 2019), <https://www.civilbeat.org/2019/08/maui-is-taking-this-clean-water-legal-fight-all-the-way-some-say-too-far/> (“The Hawaii Department of Health sent a letter in June to Councilwoman Tasha Kama to allay those concerns, which has been shared with other council members. The letter from the state’s deputy director for environmental health, Keith Kawaoka, says the department has no plans to enforce the NPDES permit requirements against existing septic systems and cesspools.”).

⁷ *Id.* (“The agency’s summary of the Clean Water Act says individual homes that use a municipal system, septic system or otherwise don’t have a surface discharge don’t need an NPDES permit.”).

⁸ See *South Fla. Water Management Dist. v. Miccosukee Tribe*, 541 U.S. 95, 108 (2004).

⁹ Amici Brief of State of Maryland et al.

¹⁰ *Id.*

being realized do not appear sufficient to justify the substantial risks posed by a U.S. Supreme Court appeal to the long-term health and resilience of our nearshore environment.

Mahalo for the opportunity to comment on this matter.