

## GET Committee

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**From:** Benjamin Rasa <BenjaminRasa@kennedyjenks.com>  
**Sent:** Thursday, May 16, 2019 11:13 AM  
**To:** GET Committee  
**Cc:** Michael.Victorino@co.maui.hi.us; Maui\_County Council\_mailbox; Kelly King; Keani N. Rawlins; Tasha A. Kama; Alice L. Lee; Riki Hokama; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura; Eassie Miller  
**Subject:** GET-26 - Hawaii Wildlife v. County of Maui  
**Attachments:** GET-26 Testimony Letter.pdf

To whom it may concern. Please find attached Testimony for GET 26 - Hawaii Wildlife v. County of Maui.

Mahalo,



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**Benjamin Rasa P.E. | Operations Manager**

707 Richards Street, Suite 528

Honolulu, HI 96817

P: 808.218.6030 | Direct: 808.218.6042

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16 May 2019

Subject: GET-26 - Hawai'i Wildlife v. County of Maui  
To: [get.committee@mauicounty.us](mailto:get.committee@mauicounty.us)

To Whom it May Concern:

The Clean Water Act (CWA) has guided the Country in protecting its precious water resources from 1972 through 2019. In addition to the CWA, the US Environmental Protection Agency (USEPA) and regulatory agencies across the country have implemented the Underground Injection Control (UIC) program, which regulates the use of injection wells for the disposal of secondary treated wastewater effluent and other industrial discharges. One of the key factors of this UIC program is the prohibition of discharge into a potable water aquifer.

The County of Maui (COM) has not violated the CWA with the use of injection wells for disposal of Lahaina WWRF effluent. The pending US Supreme Court hearing should not conclude in settlement. Instead, the US Supreme Court hearing should proceed, so that its decision can protect the COM and correct with precedence the incorrect claims by USEPA, that the COM has been in violation of the CWA with use of the effluent injection wells. The confidence of the US Supreme Court ending with this decision is based on the USEPA reversing its position, where it currently does not find that COM is violating the CWA. Settlement of the lawsuit and perceived violation of the CWA will have a catastrophic and negative impact not just for Lahaina WWRF, but across Hawai'i and across the Country as all other facilities with injection wells will be exposed to the settlement precedence if the COM hearing is withdrawn.

The COM has complied with all regulatory requirements through the UIC program. The COM has renewed their UIC permits as required every five (5) years without concern from the State of Hawai'i Department of Health (DOH) or USEPA that the COM was violating the Clean Water Act. The USEPA has been well informed of COM's use of injection wells from the 1970's . As a matter of fact, in the 1990's, the USEPA interceded in the process of reissuing UIC permits for the Lahaina WWRF by issuing a Federal UIC permit as a way to better regulate the quality of effluent discharge through the injection wells. Public meetings were held by USEPA during this process, and the collaboration resulted in Lahaina WWRF being the first WWRF to be issued a Federal UIC permit in addition to the State DOH UIC permit. The USEPA Federal UIC permit included Nitrogen limits that the Lahaina WWRF was required to meet. This USEPA Federal UIC permit was the first and only permit issued in Hawai'i. The regulatory mechanism to manage and permit injection wells instituted by the regulatory agencies across the country is the US EPA UIC Permit program. Regulatory mechanisms to manage and control the use of injection wells are already in place through the State and US EPA UIC program is not a CWA issue. The US EPA UIC program is the mechanism that regulatory agencies utilize to regulate effluent requirements for injection wells.

The use of injection wells for secondary effluent disposal throughout the State of Hawai'i has been an ongoing practice from the early 1970's. Coastal development condominium projects in unsewered

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areas (no municipal wastewater system) of Hawai'i use injection wells for the disposal of their wastewater facility effluent. On Maui a good example of this ongoing practice is the Ma'alaea community where each condominium and commercial development has at least two (2) injection wells for disposal of its treated wastewater. These injection wells have been permitted and regulated by the State DOH. On a grander scale, municipal wastewater treatment plants and resorts on Kaua'i, Maui, Moloka'i, O'ahu, and Hawai'i island rely on injection wells for the disposal of secondary treated effluent and the proposed settlement agreement will have potential major implications to these wastewater facilities. For Maui, the conscious decision was made when the COM wastewater facilities were designed and constructed using Clean Water Act grant funding to utilize injection wells for treatment plant effluent disposal, instead of deep ocean out falls.

The COM has led the State of Hawai'i in recognizing the value of its precious water resource and has implemented a comprehensive recycle water program using the high quality recycle water for the irrigation of open space, parks, commercial landscaping, and resort properties. The continued use of injection wells for effluent disposal is integral to the system and required to provide an alternative effluent disposal method during heavy rain events or malfunction of an operations process unit.

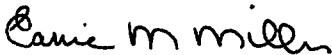
Other types of infrastructure such as cesspools, septic tanks, or reuse systems in coastal areas will be impacted by the ruling with discharges that go to groundwater that make it to the ocean. The outcome and resulting effects of this ruling will be far reaching.

Mahalo,

Kennedy/Jenks Consultants, Inc.



Benjamin Rasa  
Operations Manager



Eassie Miller  
Client Director