

**GET Committee**

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**From:** Michelle Del Rosario  
**Sent:** Thursday, April 25, 2019 10:34 AM  
**To:** GET Committee  
**Cc:** Kelly King; Kate Griffiths  
**Subject:** FW: Letter in Support of Maui County  
**Attachments:** 2019-04-25 Maui - NACWA Support Letter.pdf

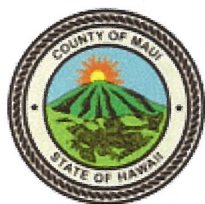
Forwarding testimony received.

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**From:** Kelly King  
**Sent:** Thursday, April 25, 2019 10:29 AM  
**To:** Michelle Del Rosario <Michelle.DelRosario@mauicounty.us>  
**Subject:** Fw: Letter in Support of Maui County

With Aloha,



**Office of Council Chair Kelly T. King**

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**From:** Amanda Waters <[AWaters@nacwa.org](mailto:AWaters@nacwa.org)>  
**Sent:** Thursday, April 25, 2019 10:26 AM  
**To:** Kelly King  
**Cc:** Keani N. Rawlins; Tasha A. Kama; Riki Hokama; Alice L. Lee; Mike J. Molina; Tamara A. Paltin; Shane M. Sinenci; Yukilei Sugimura; Maui\_County Council\_mailbox  
**Subject:** Letter in Support of Maui County

Dear Chair King, Vice Chair Rawlins-Fernandez, and County Councilmembers,

Please find attached a letter written on behalf of the National Association of Clean Water Agencies (NACWA) to express support for the County of Maui in the case *Hawaii Wildlife et al. v. County of Maui* currently before the U.S. Supreme Court.

Regards,

**Amanda J. Waters** | National Association of Clean Water Agencies | General Counsel | 202/530-2758 | 202/870-0427 cell | [awaters@nacwa.org](mailto:awaters@nacwa.org) |  [@amandawaters99](https://twitter.com/amandawaters99) | Visit us at [www.nacwa.org](http://www.nacwa.org) | 1130 Connecticut Avenue NW, Suite 1050 Washington, DC 20036



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April 25, 2019

*Via Email*

Kelly King, Council Chair  
County of Maui  
Kalana O Maui Building, 8th floor  
200 S. High St.  
Wailuku, Hawai'i 96793  
[kelly.king@mauicounty.us](mailto:kelly.king@mauicounty.us)

Dear Chair King, Vice Chair Rawlins-Fernandez, and County Councilmembers,

I am writing on behalf of the National Association of Clean Water Agencies (NACWA) to express support for the County of Maui ("County") in the case *Hawaii Wildlife et al. v. County of Maui* currently before the U.S. Supreme Court.

NACWA is a nonprofit association representing the interests of more than 320 publicly-owned wastewater and stormwater utilities across the United States. The Maui County Department of Environmental Management is a NACWA member. NACWA's members provide services that are essential to protecting public health and the environment and require regulatory certainty in order to make and plan prudently for investments of public funds. NACWA supports a strong regulatory framework to protect water resources, the environment, and public health.

This case is not about leaving groundwater pollution unregulated, nor is it about rolling back environmental protections. Discharges to groundwater are already regulated under other federal and state environmental statutes better suited to address such releases. The federal Clean Water Act (CWA) was never intended to regulate discharges to groundwater and using the CWA permit program is like trying to fit a square peg in a round hole; doing so will have unintended and harmful consequences. This case is about ensuring that discharges to groundwater are regulated properly in the manner Congress intended, and that public clean water utilities like the Maui County Department of Environmental Management – that are on the front lines of environmental and public health protection every day – have consistency and predictability in how they are regulated.

By settling this case, Maui would leave in place a decision that exposes the County and other clean water utilities in the Ninth Circuit to regulatory uncertainty and an increased risk of enforcement and citizen suits. If the decision stands, it could result in an extraordinary expansion of discharges subject to the requirements of the CWA permit program. NACWA is concerned that beneficial public and private infrastructure like green infrastructure, wastewater systems, recycled water systems, groundwater recharge basins, and other sources will become sources of legal liability under the CWA even though they are already regulated in other ways. Thus, the decision threatens the ability of NACWA members to protect their communities from new liability and costs for activities believed to be lawfully done in the best interests of its residents.

April 25, 2019  
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I hope you will take these legitimate concerns into consideration when deciding whether to proceed with the litigation. If Maui moves forward with the litigation, NACWA intends to continue to stand by the County to allow the Supreme Court to definitively resolve this issue. NACWA and its members greatly appreciate the Maui County Department of Environmental Service's strong history of environmental and public health protection around wastewater treatment and stand with the County as it continues to serve its residents with the highest level of service.

We respectfully request that this communication be entered as testimony in the Council's consideration of matters related to *Hawaii Wildlife et al. v. County of Maui*, U.S. Supreme Court Docket No. 18-260. If you have any questions or concerns, please do not hesitate to contact me.

Regards,



Amanda Waters  
General Counsel

Cc: Keani Rawlins, Vice Chair, [Keani.Rawlins@mauicounty.us](mailto:Keani.Rawlins@mauicounty.us)  
Tasha Kama, Presiding Officer Pro Tempore, [Tasha.Kama@mauicounty.us](mailto:Tasha.Kama@mauicounty.us)  
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