

The Clean Water Case of the Century

The United States Supreme Court is set to settle a decades-long legal dispute involving a wastewater treatment plant, its pollution discharges, and a partially dead coral reef in Hawai'i. What started as a local water pollution case could have disastrous repercussions for clean water across the United States.

On Nov. 6, 2019, Earthjustice attorney David Henkin presented oral arguments in *Hawai'i Wildlife Fund v. County of Maui*. At its most basic level, this case is about whether a wastewater treatment facility in Maui is violating the Clean Water Act by polluting the ocean indirectly through groundwater.

Since the 1980s, Maui's Lahaina wastewater treatment facility has been discharging millions of gallons daily of treated sewage into groundwater that reaches the waters off Kahekili Beach, a favorite local snorkeling spot. In 2012, after years of complaints from the community and unsuccessful negotiations with county officials over the destruction the pollution has caused to the reef and marine life, Earthjustice sued Maui County on behalf of four Maui community



Earthjustice attorney David Henkin

groups – Hawai'i Wildlife Fund, Sierra Club-Maui Group, Surfrider Foundation, and West Maui Preservation Association.

The county argued that the discharge of pollution from the facility's wells does not require Clean Water Act permits because the pollutants do not flow directly into the Pacific Ocean, but indirectly through groundwater. If the Supreme Court sides with Maui County and overturns the Ninth Circuit's ruling, it would allow industry to freely pollute U.S. waters as long as the pollution isn't directly discharged into a water source.

A decision is expected in 2020.