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Coty Hopinks-Baul and Karen Olson Analyze Federal Court Decision in County of Maui Wastewater Permitting Case

Spencer Fane attorneys Coty Hopinks-Baul and Karen D. Olson recently wrote an article for the American Bar Association analyzing *County of Maui v. Hawaii Wildlife Fund*.

Titled "County of Maui Revisited: How the First Application of the 'Functional Equivalent' Standard for Discharges to Groundwater Went Wrong," the article discusses the Supreme Court's decision and subsequent remand to the district court to apply the *County of Maui* factors, potential permitting implications in a wide variety of industries, including mining, agriculture, and manufacturing, and pitfalls to avoid. In particular, the article discusses how site-specific facts and concessions made early on were a significant factor in the ultimate decision and how important it is to educate the court on technical terms and their meaning.

"The *Maui* decision is an important case to review when evaluating subsurface or land disposal of wastewater, storm water, and other pollutant-containing discharges that may reach groundwater with hydrologic connections to WOTUS," Coty and Karen explain in the article. "Practitioners should study the arguments and factors set forth in *Maui* and, applying the lessons learned from the early judicial test in the district court, note how their own case's facts and circumstances are similar or different."

To read the full article, please click here.