

**[EXTERNAL] K2 - Approval of Proposed Settlement in the Conservation District Contested Case OA 24-05**

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**From** Angela Huntmer <angelahuntemer@gmail.com>  
**Date** Thu 4/9/2026 10:31 AM  
**To** DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

Thursday, April 9, 2026

Re agenda item K2

- Approval of Proposed Settlement in the Conservation District Contested Case OA 24-05  
Marconi Point Condominiums - TMK (1) 5-6-003:053

Aloha Board Members,

As a resident at nearby Turtle Bay, I am intimately familiar with the area, the illegal addition of the fence and the sorry fact that it is still there - 4 years after it was constructed and almost 3 years since the unpermitted construction was cited by the State.

After reading the proposed settlement I was deeply disappointed that there are no fines of any kind included in the settlement. While we all like the idea of encouraging compliance, allowing people to do clearly illegal things and then not having them face the consequences of their actions is not a fair policy.

According to the mission of the DLNR, protection of resources has to include deterrents for those that disregard the law. Fines are often an effective deterrent and also a potentially important source of revenue for the agency and for conservation.

This fence could have been removed years ago.

Aloha and thank you for the opportunity to testify.

Angela Huntmer

Kahuku

**[EXTERNAL] Unit 12- Testimony in Support of item K-2 Settlement Agreement-Marconi Fence Removal**

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**From** Stan Duncan <sduncan@pbrhawaii.com>

**Date** Thu 4/9/2026 12:15 PM

**To** DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>

Aloha.... I am writing on behalf of Unit 12/ Hui Kawela LLC, who is part of the Marconi Point Condominium Association.

We are in support of Item K-2 settlement agreement regarding the removal of fencing within the Conservation District Easement area.

Mahalo for your help in resolving this matter.

Respectfully submitted,

Hui Kawela LLC,

Owners:

Stan Duncan

Mike Moss

Kent Lucien

Sent from my iPhone



April 10, 2026 BLNR Meeting 9:00 am

Item **K-2**: Request for Approval of Proposed Settlement Agreement in Conservation District Contested Case OA 24-05, relating to a **fence\*** at the **Marconi Point Condominiums** at the property identified by Tax Map Key No. (1) 5-6-003:053. (\* **“Boundary Fence”**)

Aloha Acting Chair Kanaka’ole and Members of the Board,

**Aloha Marconi Alliance opposes the proposed Settlement Agreement** between DLNR and the Marconi Point Condominiums as it stands now for three reasons and, if the settlement is revised or adopted, submits a request to add a public notification condition, as follows:

**1. The Lack of a Cash Fine.**

It is shocking that there is **no cash fine** in this settlement. The Board should always impose – even via a settlement - and a violator should always pay - a meaningful cash fine on substantial and long-standing violations such as for this case.

The original enforcement action proposed a fine of \$15,000 – which is still low – but 0 is unacceptable.

**2. Regarding the western boundary fence within the Conservation District:**

- a. Pursuant to HRS §183C-7 the landowners of Tax Map Key (TMK): (1) 5-6-003:053 are fined \$15,000 for violating the provisions of HAR §13-5-25;

The Marconi Point Condominium owners could have removed this fence over *2.5 years ago* when the Notice was given (see below). The fence could – and should – have been removed **immediately** by the owners. There is no known obstacle to remove it – they put it in, they could have removed the fence once notified by DLNR that the conservation zone portion was illegal.

On October 19, 2023, a Notice of Alleged Violation was issued to all property owners within the CPR for the unauthorized land uses in the Conservation District. (**Exhibit J**)

The DLNR staff and AG time invested in pursuing these cases should be compensated to the State via a cash fine, even at a minimal level. Or, the violators should donate the fine to a wildlife/conservation non-profit on the North Shore – their penalty should help the resource recover.

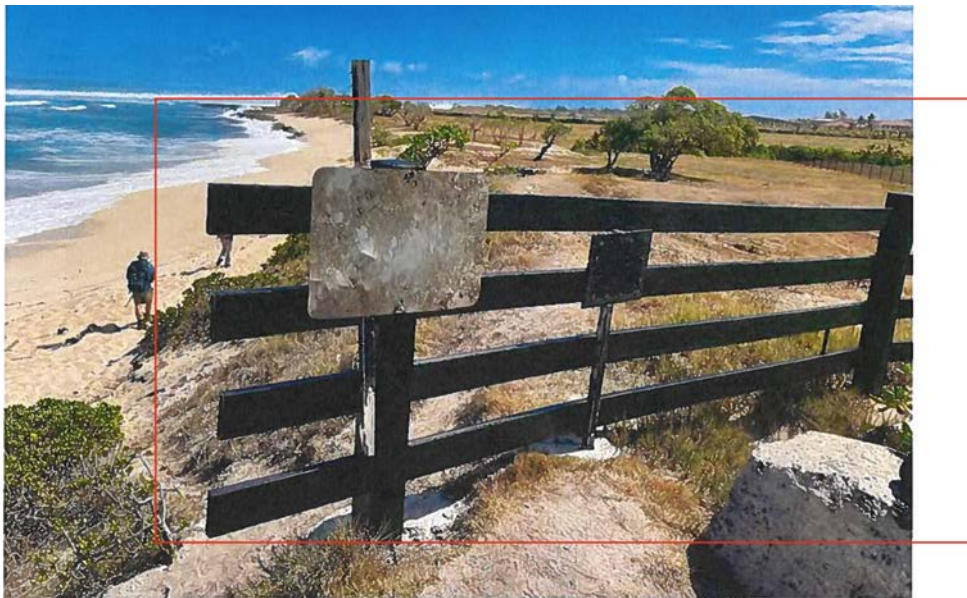
Otherwise, allowing violators to simply spend their funds on removal does not make sense from a deterrence or economic perspective. It becomes simply the cost of doing business or complying with the law, not a deterrent.

A cash fine is further warranted in this case because **the fence interfered with the habitat of the Mōlī (Laysan Albatross)** according to the enforcement actions and experts on the ground:

sited outside of the Conservation District.

OCCL staff notes, based on consultation with DOFAW and the U.S. Fish and Wildlife Service, any fence-line in this area without proper authorization is likely to adversely affect the Mōlī that nest in this area. For more information, see the staff submittal relating to the taking of the mōlī named Ho'okipa under the Division of Forestry & Wildlife's agenda items.

And the fence interfered with public access. See this photo from the submittal:



October 17, 2023

Fence line #1 in the Conservation District

I can also attest to my personal experience having to navigate around this fence and the eroded pathways multiple times since it was installed to continue coastal hikes.

Note that the sign, which is weathered and blank in this photo, used to say No Trespassing/Private Land – which is outrageous given that this is clearly public access along the shoreline.

**2. Boulders/Concrete Blocks installed by the Marconi owners along the fence line must also be removed.**

The settlement must **remove all boulders/concrete blocks** along the fence that were placed at the direction of the Marconi owners when the fence was installed.

According to experts, these boulders/blocks interfere with the movement of Mōlī adults and juveniles along that fenceline area, between the NSCLT Unit 1 and the NSCLT restoration area at [Kalaeokauna'oa](#) on the Turtle Bay side.

Even though the boulders/blocks may be “on the Turtle Bay side,” they were undeniably placed there by the Marconi team as part of the effort to block public access.

I have observed these boulders/blocks myself many times since they were installed – and reported them to the AG – here are some photos I took on site:

March 2024:



August 2025:



And December 2025:



In addition, it should be no problem at obtain permission from the Turtle Bay owners – Arete Collective – to remove this debris from their property. I am willing to help with that communication.

The fence and boulder/block removal should all be done at the same time.

**3. The Timing of Removal Must Not Interfere with Mōlī fledging season.**

As stated above the OA24-14 page 5 states:

sited outside of the Conservation District.

OCCL staff notes, based on consultation with DOFAW and the U.S. Fish and Wildlife Service, any fence-line in this area without proper authorization is likely to adversely affect the Mōlī that nest in this area. For more information, see the staff submittal relating to the taking of the mōlī named Ho'okipa under the Division of Forestry & Wildlife's agenda items.

Given the fledging season underway now in the area, with juveniles anticipated to be gone by July and August, I understand from experts on the ground that it is **best to wait until October 2026** to safely remove this fence, as it may require machinery and trucks on Unit 1 and nearby areas where there are present Mōlī adults and juveniles, who have already been stressed by the storms. There are reportedly at least seven Mōlī chicks in this area now.

**Please prohibit removal work during fledging season and set the new deadline to October 31, 2026.**

#### **4. Public notification**

The removal of this fence should be reported to the public by the Marconi owners, once started and once completed, to the nearby community associations (Sunset Beach Community Association and Kahuku Community Association) and Neighborhood Boards (North Shore and Ko'olauloa) along with a copy of the settlement when final.

It is important for the public to know that a major portion of the fence was illegal, that the State took appropriate enforcement action, and that this shoreline is being better protected both for the public and the Mōlī.

On behalf of our native wildlife and 'āina, mahalo nui,



#### **Aloha Marconi Alliance Steering Committee**

Lynell DaMate  
Chris Tarski  
Angela Huntmer  
Jonee Peters  
Maxx Phillips  
Denise Antolini