

Denise Antolini
59-463 Alapi‘o Road
Pūpūkea, HI 96712

Testimony for BLNR Meeting Friday April 10, 2026, 9 am

Re: **K-3** Request for Approval of Proposed Settlement Agreement in Conservation District Contested Case OA 24-04, relating to Sunset Oasis LLC, including its members William and Melinda **Kernot**, and alleged violations on State land located makai of 59-151 A Ke Nui Road, Tax Map Key No. (1) 5-9-002:005.

Aloha Acting Chair Kanaka‘ole, and Board Members,

As some of you know, in my individual community capacity, I have been closely following and testifying to BLNR on the various OCCL enforcement actions against landowners along the “Kammies” shoreline for the past several years.

My interest is both personal (my two sons grew up on this beach and it has continued to be our family beach even after we moved “up the hill” to Pūpūkea) and professional (as a retired professor of environmental law at UH Mānoa for 30 years).

I am generally very supportive of strong DLNR-OCCL and AG enforcement action to ensure the public trust resources of this beloved shoreline, which is an erosion “hot spot,” are protected and preserved now and for the future.

For this item **K-3 Kernot**, I **support** settlement terms **(a) & (c)** all permits obtained and removal of mauka structures and shoreline/makai debris/materials by July 31, 2026, and **(b)** shoreline certification by December 21, 2026.

However, I **oppose** several provisions of the settlement as laid out in the submittal and public record posted to date, based on three points, as follows:

1. Insufficient Record.

The submittal **lacks sufficient information** to show compliance with the stated deadlines in the proposed settlement, which **provides an inadequate record** for the public or the Board to make a reasoned decision at this time.

The record is not yet clear on whether compliance has been achieved with past deadlines and does not provide sufficient details with upcoming deadlines, as follows:

Condition (d)¹ - proof of a **retained contractor** by April 1, 2026 – *8 days ago* – was this deadline met? Who is the qualified contractor?

¹ Conditions noted are on page 2 of the proposed settlement agreement.

There are some good contractors, and some very bad rogue unlicensed ones who have done work (including for the Kernots) on this shoreline in the past – it matters who does the work in the public shoreline – please require disclosure of that information.

Condition (j) a **\$20,000 cash fine** was due on April 1, 2025 – *ONE YEAR and 8 days ago* – was this payment made? Proof? Even if this was a typo, and was meant to be 2026, proof of payment for a deadline last week should be part of the public record before approval of the settlement.

Condition (k) a **\$34,000 cash fine** of the remaining \$480,000 was due by July 31, 2025 – *10 months ago* – was this payment made? Proof? If this is a typo, again if it was meant to be 2026, please ensure proof of payment is made in July and part of an accessible public record.

Condition (e) dune restoration – this is a positive step given that OCCL must approve the plan, but the location and scope of the restoration needs to be clarified as it is, presumably, on public property in the shoreline; and the plan and **signage** should be included as conditions and fully disclosed to the community (see disclosure conditions below).

2. **The cash fine is way too low.** The Board should increase the fine to **at least 10%** of the original proposed amount (\$948,000) – that is, a cash fine of **at least \$94.8k** instead of **\$54k** (5.6%) – in addition to the 1:1 fine reduction for verified and qualified relocation and removal costs up to \$446,000.

The low cash fine in this case – and the even worse cash fine in the Freeman case (K-4) – send the wrong signal to blatant violators of our state laws that protect the public shoreline and public trust resources.

This landowner not only maintained illegal shoreline structures for years, which interfered significantly with the public beach and lateral access, but also, according to their adjacent neighbor Mr. Randy Youman (who is contesting his similar fine in a recently concluded contested case), the Kernots were to “blame” for enticing him to install a conjoined illegal burrito system. Regardless of the enticement allegation, the record is clear that the Kernots and Mr. Youman have a conjoined system, which should heighten the scrutiny of these extensive violations.

These two illegal burrito/bag/boulder systems - Youman and Kernot - have created the most severe impact on the shoreline along the Kammies area for years. Inexcusable for people who claim to love this beach.

Moreover, it does not make sense economically for the State given the extensive investigative work by OCCL, the huge amount of time and expertise sunk into enforcement by staff and

leadership – and the AG, and the fact that the respondents have dragged these proceedings out for so long by failing to comply quickly.

The Board and the AG should adopt a shoreline enforcement policy that always obtains a substantial fine – I suggest in these cases 10% of the proposed initial fine, but really it should be much higher as a rule around 30% minimum to provide the right deterrence signal.

The 1:1 removal costs (mitigation amounts) are really not a fine – they are simply the cost of compliance required by law.

3. The Board should add public notification requirements (the same as for the McNamara seawall removal in 2023 – and the same as I am recommending for the Freeman submittal).

If the Board accepts the settlement, as with my testimony on the Freeman settlement K-4, I request the addition of three specific public notification conditions similar to those the Board imposed based on my testimony on the McNamara settlement in October 2023:

“(a) written monthly notification to all homeowners along Ke Nui Road (by post or email);

(b) highly visible signs (approved by OCCL) [note: see sign design below] to be posted on the beach that clearly state the permit name, homeowner name, deadline for the project, and provide a QR code to the Board action and the OCCL submittal, as well as a number to call for questions/complaints; and

(c) a letter from the homeowner to the Sunset Beach Community Association explaining the project nature, deadlines, approvals, and extend of community and signage notification, with monthly updates. The community deserves accurate, timely, and easily accessible information about what is happening to this beach.

Better notification will also benefit the landowner and DLNR by avoiding hassles and misunderstandings.”

Note that the Kernots are on the same beach as the McNamaras; they should be fully aware of how the McNamaras complied with those conditions when the seawall was removed. Moreover, the DAG should have also been aware that these conditions were previously included for the similar settlement with the McNamaras and included them here.

Please note that **additional specifically designed signage for the dune restoration project is important** – otherwise the public may get the wrong message that is it somehow OK for homeowners to plant and irrigate vegetation in the shoreline, in violation of *Diamond I and II*.

As with the Freeman case, I wish I could be enthusiastic about this proposed Kernot settlement as I recognize the importance to OCCL and the AG – and of beachfront landowners -- of settling cases that result in the mauka relocation of a beachfront home along the “Kammies” shoreline. I

believe that this is now the sixth house to be relocated or demolished at Kammies due to severe coastal erosion and illegal shoreline materials. However, it is precisely because this shoreline is so important and because these illegal shoreline materials are so damaging to the public beach that this settlement has to be done right, not rubber-stamped.

Mahalo,



Denise Antolini


This sign was the final design used by the McNamaras for their seawall removal in the BLNR-approved 2023 settlement:

Public Notice!

**Emergency Conservation District Use Permit (CDUP) OA 24-01
Related to the Settlement Agreement for Contested Case CC:**

OA 21-03 for ENF: OA 21-03 and the Removal of Concrete Shoreline Protection Structure (Unauthorized Seawall) and Installation of Temporary Shoreline Structure, Located makai of 59-175 C Ke Nui Road Pupukea-Paumalu Beach Lots, Koolauloa, Oahu, Tax Map Key (TMK): (1) 5-9-002:026 (seaward)

For more information scan QR code	HOMEOWNER NAME: SEAMAIDS LLC	REQUIRED COMPLETION DATE: August 31, 2024
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For additional questions and/or concerns please contact:

Property Owners Representative: Mark Ticconi - (808) 348-7192
Property Owner's Counsel: Goodsill Anderson Quinn & Stifel, LLP (Forest Jenkins) - (808) 547-5600
DLNR: Office of Coastal and Conservation Lands: (Trevor Fitzpatrick) - (808) 587-0377