

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

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

Re: **K-4** Request for Approval of Proposed Settlement Agreement in Conservation District Contested Case OA 24-01, relating to 59-181 Ke-Nui LLC and Eric and Moniza **Freeman** and alleged violations on State land located makai of 59-181 D Ke Nui Road, Tax Map Key No. (1) 5-9-002:034.

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 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, I write to **oppose** the settlement between DLNR and the Freemans, as proposed in the submittal.

The submittal is **inexplicably confusing, way too weak on the fines, and provides an inadequate record** for the public or the Board to make a decision at this time.

The posted submittal lacks critical updated information on the status of the implementation of the settlement terms signed in **2025** by the Freemans and the AG (dated July 11, 2025 by DAG John Dubiel, ten months ago). No updated information was provided by the Freemans or the AG via the BLNR Agenda materials posted as of today.

Five key points:

1. Deadlines and Compliance Not Documented.

Many of the key deadlines in the proposed settlement passed *months ago*, and there is no documentation or even an explanation/statement in the submittal about (a) any extension, or (b) any compliance with those deadlines, including:

- (i) **Payment of fines** - “(j) The Freemans shall pay any fines which are due and owing by **December 31, 2025**” – where is proof of payment?

- (ii) **Moving the house back by December 31, 2025** - I am aware that the house was moved back, but that is only my personal knowledge from my own observation; where is the documentation for the Board of completion of this very important action and where are the verified receipts showing the cost that qualify for the “dollar for dollar” reduction of the fine (up to \$500,000.00) under the proposed settlement?
- (iii) **Shoreline certification by December 31, 2025** – was this done? If so, the certified shoreline and all relevant information (date, acceptance) should have been included in the submittal.
- (iv) **Removal of all shoreline materials by December 31, 2025** – was this done? I am not aware that it was undertaken and completed. If so, it should have been documented thoroughly in the submittal, and receipts should be provided if this will be part of the 1:1 reduction proposed in the fine amount. The materials in the shoreline were extensive (see Submittal photos, pp. 49-94!), so this is not a small issue and it directly impacts the beach, a public trust resource.
- (v) Option for one **6-month extension** – did the Freemans seek and receive the extension? If so, why was that not included in the submittal; if it was extended, then this matter should come before the Board *after June 2026* to ensure compliance of the extended deadlines.
- (vi) **Dune restoration by Dec 31, 2025** – was it done? Where is the documentation? The submittal should also clarify precisely where and how this restoration was done – presumably in the *public* shoreline – and that determination of location depends on the shoreline certification, which (see iii above) is missing from the submittal.

2. The Settlement Must Be Rejected for Non-Compliance and the Full \$937k Fine Must Be Paid Under its Own Terms.

Given that there is no record evidence publicly posted or, apparently, before the Board of compliance, then the settlement cannot be accepted *by its own terms* and the Freemans must pay \$937,000.

See Submittal page 6 “1. “If the Property and the Freemans are not in compliance with all Federal, State, and County laws by December 31, 2025, the full fine amount of nine-hundred and thirty-seven dollars (\$937,000.00), will become due and owing”

Has the full amount been paid? When?

3. The \$10k Minimum Cash Fine Is Shockingly Low and Should Be Rejected Given the Record of Knowing Noncompliance and the Continuous Major Illegal Work in the Shoreline.

I do not oppose the use of the “dollar for dollar” method for reducing the proposed fine of \$500,000 based on the cost of relocation of the house and the removal of shoreline materials – *if*

documented properly and verified, and disclosed publicly in this proceeding (but that information has *not* been provided as explained above).

However, the DAG proposes a remainder minimum (cash) fine of \$10k! This is really shocking given the record and viewed against the original proposed fine of \$937,000.

Please review the *extensive* OCCL notes on and documentation of the numerous and continuous violations by the Freemans.

In particular, see February 27, 2023 – where the Freemans say “we were misled” by the prior owner (who also had a contested case for illegal shoreline materials, which was public record), and then – despite this protestation of innocence -- the Freemans started up *more illegal shoreline activities* in March 25, 2023, which continued for days.

The work *was not innocent or minor*: “The work appeared to consist of the conveyor belt and sand being mined from the beach to cover and/or bury the latest unauthorized erosion control structure(s).” (Submittal p. 10.)

The work *damaged and stole public trust resources*: “it also appears that a sizeable hole has been created on the public beach fronting Parcel 034 and unauthorized erosion control structure, apparently from the unauthorized mining of sand by the Freemans and their agent(s)” (Submittal p. 10.)

Please look at the OCCL photos on pages 49 – 94 => **45 pages** of powerful photos tell the story of this egregious case.

4. Vacation Rental Income Makes the Cash Fine Absurd

Even though the Freemans have a legal vacation rental (a rarity on the North Shore), it is important to note that the income they received from renting their property makes the fine look ridiculous.

As the record shows, the Freeman were advertising their property through AirBnB in 2023 for **\$1037 a night!** (Submittal p. 32)

So the minimum fine is basically a ten-night stay – **only about 3%** of the potential *one year* of rental income at that rate (\$378,505). The Freemans have owned the property since January 2021 – so, in theory, they have had five years of that very high rental income – potentially \$1,937,525. Even if the actual income is a portion of that advertised amount, it is still substantial and, if there is a dispute about that, then the Freemans should document their rental income for the Board and the public as part of this settlement.

In my view, the Board should set the minimum cash fine at least at 10% of the proposed fine so **\$97,300**.

This would set a terrible precedent for the Board to take such a low cash fine given the record.

5. Lack of Public Notice Conditions in the Settlement – Conditions Should be Same as McNamara’s Notice Conditions

If the Board accepts the settlement, 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 Freemans are neighbors with McNamaras – separated only by a Beach Right of Way (BROW) - 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.

I wish I could be enthusiastic about this proposed 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: Goodsell Anderson Quinn & Stifel, LLP (Forest Jenkins) - (808) 547-5600
DLNR: Office of Coastal and Conservation Lands: (Trevor Fitzpatrick) - (808) 587-0377

