



May 3, 2026

Re: Proposed Alternative Settlement for Marconi Boundary Fence

Aloha Deputy Attorney General Patel,

As you know, Aloha Marconi Alliance submitted testimony on K-2<sup>1</sup> – the Marconi Boundary Fence settlement - for the April 10, 2026 BLNR meeting, which is now Item K-1 for the rescheduled BLNR meeting on May 8, 2026.

We opposed the proposed Settlement Agreement between DLNR and the Marconi Point Condominiums (Marconi) but supported the fence removal with conditions regarding the timing, the boulders/concrete, imposition of a fine, and public notice/signage.

Since we submitted our testimony, we have engaged in *informal* conversations with several Mōlī experts, the North Shore Community Land Trust (NSCLT),<sup>2</sup> and The Ritz-Carlton O‘ahu, Turtle Bay (Turtle Bay), regarding a more beneficial alternative settlement proposal, as laid out below.

Our understanding from witnesses is that when the boundary fence was installed in the Conservation District (and mauka) by Marconi employees in 2022, the boulders/concrete were also installed near/in the shoreline on the Turtle Bay side of the fence to further block access.

The alternative settlement we propose would provide more benefits for wildlife, improve public shoreline access, protect fragile habitat, and redirect the costs of removal and the fine to help pay for a future predator fence to protect the important Mōlī habitat at Kalaekauna‘oa/Marconi.

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<sup>1</sup> Now Item **K-1**: 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”**).

<sup>2</sup> As you know, NSCLT owns Unit 1 at Marconi on the Kahuku side of the boundary fence and Turtle Bay owns the property on the Kawela side of the boundary fence.

The alternative settlement proposal is as follows:

- (1) Improve Mōlī Access: The existing boundary fence in the Conservation District (approximately 150 feet in length starting from the shoreline) does *not* need to be removed for the Mōlī to go under it<sup>3</sup> to access nesting and landing areas at Kalaekaua'oa/Marconi ***so long as*** the **boulders/concrete** impediments to their movement are **relocated** and **vegetation is kept cleared** to allow multiple pathways under the fence at appropriate intervals - maintained at least 18" wide (see Photo A for a view of the boulders/concrete shortly after they were placed in 2022, preventing Mōlī movement; see Photo B for a more recent view showing the overgrowth that further impedes access though the habitat);
- (2) Prevent Vehicle Damage: The existing boundary fence is useful to prevent damage from ATV/vehicle/Ebike access across the Turtle Bay and Marconi parcels and the public shoreline. Preventing such vehicles access is a high priority to protect the integrity of the beach and Mōlī habitat (as well as turtle nesting) and thus serves a public and wildlife protection purpose. The fence also protects the Marconi (including NSCLT Unit 1) and Turtle Bay properties from trespassers and property damage;
- (3) Improve Shoreline Access: The existing boundary fence, however does jut out to the trail right along the ocean (see Photo C), and inhibits reasonable public lateral access to the beach and shoreline; therefore, a 10-15' rollback to the second post (see Photo C) is warranted; something like fixed posts should be installed in that shoreline area to continue to prevent ATV/vehicle/Ebike access but allow hikers safe access and avoid trail erosion;
- (4) Better Signage: To better educate the public who uses the shoreline, the parties should be required to post educational signs approved by DLNR, NSCLT, Turtle Bay, Marconi, and USFWS on both sides of the boundary fence near the shoreline with conservation information including: the area is essential habitat for protected native wildlife including the Mōlī, Green Sea Turtles, Yellow-Faced Bee (*Hylaeus anthracinus* and *logiceps*), and Monk Seals; no ATV/vehicle/Ebike access and no dogs are allowed; and visitors should stay more than 30-feet away from any wildlife or nesting areas; this partnership on signage on this area of the boundary fence would also be a positive collaboration to help move the parties past prior conflict and toward the common goal of wildlife habitat conservation;

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<sup>3</sup> However, the lower railing is quite low in this area and may need to be removed; which would still leave three railings. See Photos B and C. This modification could be determined by NSCLT and wildlife experts once the boulders/concrete and vegetation are cleared.

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- (5) Avoided Removal Costs: The settlement would “legalize” the boundary fence in the Conservation District, so long as the conditions are met, and Marconi would avoid the cost of removal; the boulders/concrete could be relocated and the vegetation cleared as needed by volunteer labor provided among the partners; and
- (6) In Lieu Payment To Benefit Mōlī: In lieu of paying the cost of removal and the original fine, Marconi would make a \$50,000 donation for an eventual predator fence, which is under discussion among NSCLT, Host/Ritz, Arete, and USFWS, that will likely include habitat on both Turtle Bay and makai portions of the Marconi units to protect the growing successf of nesting Mōlī in this unique area.

Lastly, we continue to urge that any settlement prohibit any work during Mōlī fledgling season and that the deadline for completion of conditions be moved to October 31, 2026.

Please consider this alternative proposal as way to bring all partners along a better pathway forward for the Mōlī, other wildlife, public shoreline access, and protection of this fragile coastline. I encourage you to share this letter with the attorneys for Marconi and I am also happy to discuss it further this week with you and any of the parties/partners before or during the BLNR meeting. You can contact me at (808) 554-7215.

Mahalo,



Denise Antolini

Aloha Marconi Alliance

CC: Adam Borrello, NSCLT; Doug Chang, Turtle Bay/Ritz; Sheldon Plentovich, USFWS

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Photo A – shows placement of boulders/concrete on Turtle Bay side of the boundary fence when the fence was installed that block Mōlī movement on the Turtle Bay side of the fence to the Marconi side



Photo B – shows how vegetation has overtaken the boulders/concrete and further interfered with Mōlī movement in the Conservation District – it also shows that lower rail may need to be removed in that section (leaving the three upper rails)



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Photo C – shows the fence “jutting” into the shoreline and access trail; the deteriorated signage is obviously ineffective; this area could have just posts approved by DLNR to prevent ATV/vehicle/Ebikes but allow hikers



October 17, 2023

Fence line #1 in the Conservation District