



April 9, 2026

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.  
Hearing: Board of Land and Natural Resources Meeting, Friday April 10, 2026 9AM

To: Chair Kanaka'ole and Members of the Board,

On behalf of the Surfrider Foundation Hawai'i Region, we respectfully offer comments on the proposed settlement agreement.

Surfrider Foundation is dedicated to the protection of our oceans, waves, and beaches for all. For years, we have been actively engaged in protecting public trust beaches within this coastal erosion hot spot. We strongly appreciate DLNR-OCCL and the Attorney General's ongoing efforts to enforce shoreline protections and safeguard public trust resources along this highly dynamic and erosion-prone coastline.

While we support key components of the settlement, including requirements to move the structure off the shoreline, remove debris and structures from State lands, and complete shoreline certification, this settlement raises concerns regarding the adequacy of the record and the proposed penalty.

First, the record before the Board is insufficient. The submittal does not include documentation demonstrating whether key deadlines have been met, including retention of a qualified contractor and payment of required fines, including deadlines that have already passed. Without this information, the Board cannot make an informed decision.

Second, the proposed penalty structure is disproportionately low relative to the scale and duration of violations. The original proposed fine of \$948,000 is reduced to \$500,000 upon compliance, with only \$54,000 required as a cash payment. The remaining balance may be reduced on a dollar-for-dollar basis based on costs incurred to correct the violations. While cost recovery is appropriate, these expenditures reflect the cost of coming into compliance—not a true penalty.

Finally, if the Board considers approval, we recommend inclusion of clear public transparency and notification requirements to ensure the community is informed of restoration activities affecting the shoreline.

Hawai'i's shorelines are public trust resources. Enforcement outcomes must uphold that trust and ensure meaningful accountability and restoration.

Mahalo for the opportunity to testify.

Sincerely,

Hanna Lilley  
Hawai'i Regional Manager  
Surfrider Foundation