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May 8, 2026

Board of Land and Natural Resources

State of Hawai'i
1151 Punchbowl Street, Room 220
Honolulu, Hawai'i 96813
Submitted via email: blnr.testimony@hawaii.gov

RE: Written Testimony — May 8, 2026 BLNR Meeting · Agenda Items K-2, K-3, and K-4

Aloha Chair Kanaka'ole and Members of the Board,

My name is Mark Deakos. I am a marine researcher with over thirty years of experience studying Hawai'i's coastal waters, shoreline processes, and marine ecosystems. I am submitting this written testimony as an individual citizen and scientist regarding Agenda Items K-2, K-3, and K-4 on today's agenda. All three concern the key question for this Board: whether the public trust in Hawai'i's natural coastlines will be maintained, or if it will gradually erode through small approvals—such as variances, extensions, and unpermitted structures.

I believe this Board is making a significant and brave shift. You are increasingly prioritizing the public trust, including the beaches, submerged lands, and natural coastal processes that belong to everyone and future generations, over the short-term interests of private property owners at the ocean's edge. This shift is proper, lawful, and aligns with what science, the law, and our responsibility to future generations require.

AGENDA ITEMS K-2 AND K-3: Ke Nui Road Shoreline Settlements, Sunset Beach, O'ahu

I am writing briefly about Items K-2 (Sunset Oasis LLC / Kernot, OA 24-04) and K-3 (59-181 Ke-Nui LLC / Freeman, OA 24-01), both concerning unauthorized shoreline hardening structures installed on state-owned public land at Paumalū — Sunset Beach — on O'ahu's North Shore.

I commend the Board and DLNR-OCCL for addressing these issues. Sunset Beach, a world-famous surf destination and important public trust resource, faces repeated unauthorized structure installations along Ke Nui Road, despite formal stop-work orders, which directly breach protections under HRS Chapter 205A and Act 16 of 2020. Erosion defense measures that armor

private property often displace erosion onto the public beach. Each unauthorized structure on state submerged land diminishes a shared resource for all visitors to that shoreline.

I respectfully urge the Board to ensure that the settlement terms in both cases:

1. Require unconditional removal of all unauthorized structures from state land;
2. Impose penalties that truly reflect the willfulness and recurrence of violations, rather than just the bare minimum required to close the case.
3. Ensure consistency between K-2 and K-3. If these cases—sharing the same beach, pattern, and legal framework—result in significantly different outcomes, it will send a message to property owners observing the process that enforcement results are negotiable on a case-by-case basis. They should not be.

The public trust is not a negotiating position. It is a constitutional obligation.

AGENDA ITEM K-4: Request for Time Extension — Emergency CDUP MA 21-10 Mantokuji Soto Mission, 253 Hana Highway, Pā‘ia, Maui

Background and Context

Mantokuji Soto Mission is a historic Buddhist temple and cemetery established in 1906 on Maui's North Shore in Pā‘ia. It holds genuine cultural and community significance, and I want to acknowledge that upfront before addressing the concerns this issue raises.

Emergency CDUP MA 21-10 was initially issued in May 2021 for the temporary placement of ElcoRock® sandbag containers along 112 feet of eroded shoreline on state submerged lands. Following a material amendment, a time extension, and a footprint expansion, the structure now covers about 161 feet, with the permit valid until May 30, 2026. The applicant — Oceanit, representing the Mission Board — now seeks an additional **three-year extension to May 2029**. They propose a comprehensive coastal restoration plan involving 20,000–30,000 cubic yards of offshore sand nourishment and a possible hybrid offshore reef breakwater, estimated to cost **\$20 million or more**. This would be the first project of this kind permitted on Maui.

The Mission Was Already on the Right Path

I want to emphasize what the record shows regarding the Mission's prior direction before the current consultant-led proposal. The Mission collaborated with County and State support—such as approximately **\$3 million from the Managed Retreat Fund and Green Fee allocations** for FY2026—to fulfill the explicit requirement of Condition 4 in the original permit: creating a plan to **move the threatened structures landward** of the advancing escarpment. This strategy, known as managed retreat, is scientifically validated, legally required, and financially practical.

The Mission's 2023 Mitigation Report, submitted by Oceanit to meet Condition 4, identified that relocating the temple on-site would cost **around \$2 million**—well within the available funds. Instead of moving forward with this plan, the Mission was directed towards a \$20 million offshore

engineering proposal that lacks a specified sand source, cost estimate, environmental review, and has never received approval on Maui.

A Conflict of Interest the Board Should Name

The Mission is not the first community to suffer from coastal engineering consultants who might prioritize their financial interests over the community's needs. I've seen this pattern repeatedly along these coastlines for thirty years. When a consultant, paid to design, permit, and manage a \$20 million project, recommends opting for this instead of a straightforward \$2 million relocation that wouldn't require extra consulting fees, the Board should question whether the Mission is receiving impartial advice.

It is particularly concerning that Oceanit—the same entity proposing the \$20 million restoration—along with the Oceanit Research Foundation, has drafted **SB3169/HB2490**. This legislation seeks to exempt the project from HRS Chapters 183C (Conservation District), 205A (Coastal Zone Management), and 343 (Environmental Review), as well as county shoreline setback and building permit requirements. Pursuing such exemptions from protections that safeguard public coastal resources while seeking public funding through the County Managed Retreat Fund raises serious questions. It calls into question whether this approach truly aligns with the Mission, benefits the public, or reflects the best interests of the consultant.

What Your Own Staff Report Says

I want to emphasize a point that should be decisive for this Board. In the very report recommending approval of this extension, DLNR-OCCL staff outline **eight particular concerns** regarding the proposed long-term restoration plan. These include:

- There is no information available regarding the compatibility of the sand source, its available volume, or the costs associated with offshore recovery.
- Any offshore breakwater on submerged lands must obtain a BLNR-approved CDUP, comply with HRS 343, and probably secure federal permits from the Army Corps of Engineers — a process staff recognizes as 'likely to require extensive time.'
- The beachfront in front of the sandbags is a known resting area for green sea turtles, which poses challenges for complying with HRS 343, the Endangered Species Act, U.S. Fish and Wildlife reviews, and NEPA requirements. The concept plan does not address this issue.
- The long-term project lacks an overall cost estimate, which staff mention 'may be prohibitive to implementation.'

And then, in the very same staff report, OCCL writes:

"It may be advisable to revisit the potential for relocation of the temple building within the property, given the likely high cost of the proposed nourishment and offshore breakwater project if the objective is to safeguard and preserve the historic building. The overall cost of offshore sand reclamation and placement and submerged breakwater construction, including environmental compliance and permitting, is likely to be several times more than the cost of relocation, with

similar project estimates in the \$20M+ range." — DLNR-OCCL Staff Report, K-4, April 22, 2026

This is not a personal opinion against the applicant. **It is your agency itself explicitly stating in writing that the \$20 million route is mistaken and that relocation warrants reconsideration.** The Board should seriously consider its own staff's advice.

Unauthorized Activity Is Not a Minor Issue

The record also reflects that on March 11, 2026 — while this extension request was pending — large quantities of gravel were placed in the shoreline area without state or county authorization. The County of Maui issued **Notices of Warning on April 27, 2026** for potential shoreline and SMA violations, carrying potential fines of up to \$100,000 initially and \$10,000 per day. Granting a three-year extension while unauthorized materials remain in the shoreline and enforcement actions are unresolved would send precisely the wrong message about this Board's commitment to compliance.

The Science: Why Armoring Is Not the Answer

Having observed for thirty years, I see that shoreline armoring consistently affects beaches. The evidence is clear: seawalls, revetments, and similar structures—such as geotextile sandbag barriers—shield the land behind them but speed up erosion of the adjacent beach. They don't prevent coastal retreat; instead, they shift it onto public beaches. Over 25% of Hawai'i's beaches have been lost due to armoring. This site, with the only remaining sandy beach in Mantokuji Bay sitting directly in front of an armored structure on state submerged land, vividly exemplifies this process.

Hawai'i's legislature acknowledged this by passing Act 16 of 2020, which enhances HRS §205A-2 to explicitly ban private shoreline hardening at sand beach locations. It also raises the requirements for variances, demanding clear proof that granting them benefits the public interest. The emergency permit process under HAR §13-5-35 was created for urgent, unforeseen threats—not for long-standing, well-documented, and predicted coastal erosion. The situation at this site is not an emergency; rather, it is an expected outcome of constructing and maintaining structures in a high coastal hazard zone without a plan for eventual relocation.

Recommendation

With respect for the genuine cultural significance of Mantokuji Mission, and with full recognition that the community wants to do the right thing, I respectfully urge the Board to:

1. Reject the three-year extension request and approve only a one-year extension instead, with conditions:

- a. Submit a binding relocation plan that includes cost estimates, a firm timeline for implementation, and documented coordination with County and State managed retreat funding programs;

- b. Show a good-faith effort to allocate the existing County Managed Retreat Fund and Green Fee funds for relocating the temple building, rather than for additional shoreline engineering studies.
- c. Coordinate with County Planning, the Office of Conservation and Coastal Lands, and the UH Sea Grant Program to independently assess relocation options apart from the current consultant.
- d. Prove an updated shoreline certification for the subject property so public trust lands can be defined; and
- e. Submit a complete CDUP application with HRS 343 documentation and public comment within one year if any long-term shoreline modifications beyond relocation are still proposed.

2. Require the prompt removal of all unauthorized materials from the shoreline area as a condition for any extension, consistent with the Board's policy on unpermitted shoreline activity.

3. Clearly affirm that no additional extensions of this emergency permit will be granted under any circumstances. All future shoreline protection efforts at this site must go through the complete Conservation District Use Permit process, which includes environmental review and meaningful public involvement — such as a Ka Pa‘akai O Ka ‘Āina analysis due to cultural resource considerations.

Closing

The Hawai'i Constitution places the public trust in natural resources in your hands. Beaches are not just scenery. They are habitat, they are cultural heritage, they are the living expression of coastal processes that have shaped these islands for millennia. They belong to every person who will ever walk their shores — including those not yet born.

As you rightly noted, inadequate **planning by property owners does not create a public emergency**. The strategy of relocating structures away from the coastal hazard zone isn't intended as punishment. Rather, it is the only approach that aligns with scientific insights, complies with legal obligations, and honors the kuleana this Board has for future generations.

I am grateful for your service and your commitment to getting this right. Mahalo nui loa.

Respectfully submitted,

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May 8, 2026

cc: Michael Cain, Administrator, DLNR Office of Conservation and Coastal Lands
Amy Wirts, Coastal Lands Program Coordinator, DLNR-OCCL
Budget, Finance & Economic Development Committee, Maui County Council