

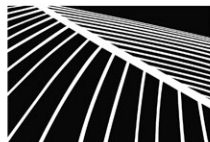
LĀ‘AU POINT

PROPOSED
FINAL ENVIRONMENTAL IMPACT STATEMENT
WEST MOLOKA‘I, MOLOKA‘I, HAWAI‘I

VOLUME 2B OF 3
COMMENTS & RESPONSES

Prepared for:

Accepting Authority
State of Hawai‘i Land Use Commission
&
Applicant
Molokai Properties Limited



PBR HAWAII
& ASSOCIATES, INC.

November 2007

Draft EIS
Comments & Responses

Individuals

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Re: COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR LA'AU POINT
(HRS 343 DEIS)

- To all concerned,
- I respectfully submit these comments on the DEIS for La'au Point, (hereinafter EIS).
- Some notes about my comments:
- MPL, Molokai Ranch, the Ranch, and the Developer, are all used interchangeably to refer to the applicant.
 - CIA refers to the Cultural Impact Assessment (Appendix F).
 - SIA refers to the Social Impact Assessment (Appendix M).
 - EC usually refers specifically to the Enterprise Community Board.
 - Some of my comments may be repetitive or redundant at times in order to clarify a certain point, but, with all due respect, so is the EIS.
 - Sometimes I address the applicant in the second person (as "you"), and sometimes I refer to the applicant in the third person (as "they"). I trust it will be clear enough in my comments (given this explanation) that I am referring to the applicant in each case.

Sincerely,
Adam T. Mick
Adam T. Mick

Access/Subsistence Access
Page 7 and 63 of the EIS outline the shoreline access plan: There will be only 2 shoreline access areas for the general public; a "Land Trust Steward" will supervise assess; and those who access the area will have taken the "appropriate education classes in traditional subsistence gathering and access responsibilities, safety, and protocol.

Having only 2 public accesses in a subdivision is against both State and County law. "which requires rights of way to be created where land fronting the shoreline is subdivided." The requirement of Maui County Code (MCC) Section 18.19.210 is "15 foot wide access rights-of-way every 1500' where possible." According to the EIS, the would "require 16 public access rights-of-way for the project. (page 62, sect. 4.3)

County law states that the Director of Public Works "may require that right of ways be consolidated...and may modify the standard rights-of-way..." However, the law states that any consolidation "shall not differ substantially from that which would be required by the provision of standard rights-of-way..." (page 62, sect 4.3)

It does not say they "shall" (i.e. must) modify and consolidate the rights-of-way, it says they "may" (i.e. might or can if they want to). However, it does say that they "shall not" (i.e. must not/will not) modify or consolidate them greatly. This means that while it is conceivable that there could be less than the required 16 public accesses (1 every 1500'), having only 2 would "differ substantially" from the normal requirement. Therefore, while there might be 8 accesses instead of 16, it is unlikely there will be end up being just 2. Of course, this will negate the proposed protection of having only 2 access points.

Can MPL (and/or the Director of Public Works) absolutely guarantee that there will indeed be only 2 accesses? How so? If not, why in the world should this development be approved since so much of the protection in the EIS hinges on having only 2?

Can they also guarantee that this will not be able to be altered in the future (i.e. guarantee that no additional accesses will be added later.)? If so, please give precedents of this in other Hawaii's developments?

Please explain how this will hold up against State and County Law. Please cite legal precedents. There is an awful lot hanging on these "may's"; thus, this needs to be set up now and approved now.

If the answer to these questions above must come from the Director of Public Works, may I respectfully suggest that you go and ask him/her, so that the answer can be included in the EIS.

How are you going to "control" access? And is it legal to do so? You can control and regulate gathering of certain things, but can you legally restrict access to the shoreline in this way? How is this not against State Law? Please give legal precedents that are relevant and applicable to this situation.

Page 63 says that near the lighthouse, "Access would be restricted to experienced subsistence fishermen only." Again, can you legally restrict access to the shoreline? Who will enforce this?

What is the criteria to be considered an "experienced subsistence fisherman"? Who will verify that one is or isn't? What will be the consequences of being there if you are not?

Will public access merely be "discouraged" or will it be "restricted." The words mean very different things, but MPL uses them interchangeably in the 4th paragraph of page 63.

The EIS states that "Resource managers hired by the Land Trust or security hired jointly with the homeowner's association will enforce the agreed-upon shoreline access management plan." *Security!* And what if the cannot agree on a plan? What then?

Page 63, section 4.3 says a "shoreline access management plan will be developed and adopted to regulate (through legal and enforceable means) the use of land and ocean resources." Developed by whom? The Developer? When? This plan needs to be developed *now* and be part of the EIS so that the public has a chance to look at it, evaluate it, and comment on it.

Since this "shoreline access management plan" is a key part of the protection provided in the EIS, the Developer needs to have this in place *before* any development. It is the Developer's responsibility to come up with this plan, not pass it off for someone else to do later. They can contract other groups and organizations to develop it, but ultimately it is their responsibility to come up with it and include it in the EIS for comment; thus they need to have that work done *now*. (It is not their responsibility to *manage* the plan after it is in place, but it is their responsibility to come up with that plan. This is applicable to all plans in the EIS.)

Where will the Land Steward be from? How will he/she be chosen?

How will the Land Trust Steward(s) regulate access on both of the two access points? Will there be a gate?

Page 63 of the EIS says that the Land Steward will make sure that "those who access the area have taken the appropriate education classes. How?

How will s/he know or verify that people have had their "mandatory educational classes"? What is everyone going to do, carry an ID card with a photo ID? Will one have to show ID and credentials to pass through any gate? Is this what is to be expected of subsistence fisherman?

What will be his legal enforcement powers to regulate access? And what will he be legally empowered to do if one passes through the area without credentials? Detain them? Fine them? Shoot them? What? The public deserves a chance to evaluate this part of the plan!

Are you really going to give classes to Molokai natives about how to subsist? Are you really going to make residents who have subsistence fished there for years go to classes? Who will teach these classes... Professor McGregor?

The public will have to take classes to get to gain access to the beach. Will the owners have to also take classes to get access to the beach? What about their guests? What about their renters? What about their house-sitters?

If so, who will check to verify that they have indeed done so? Will the Land Trust Steward or "security" be patrolling the fence line of the private lots, and checking credentials as the homeowners and their guests come down to the beach from their properties?

How will it be ensured that the owner(s) of the house - who signed the CC&Rs - actually lives there? Are you going to screen who is at every house every day? Will the CC&Rs say who can and can't come over?

Again, what about guests, house-sitters, renters, or other family members who are not on the title and have not signed the CC&Rs but do live there? Will they have to sign CC&Rs too and go to classes too?

What kinds of restrictions will there be on *them*?

How will this be monitored? Who will enforce any restrictions? How?

How will guests or other family members staying at a La'au house be "educated" before their beach access? Are you expecting the homeowner to do it?

How will renters staying at a La'au house be "educated" before their beach access? Are you expecting the homeowner to do it?

What consequences will there be for homeowners or guests who gain access without having first been educated? Will the homeowner be penalized or will the guest be treated like a criminal? What will the penalties/consequences be?

There were community concerns cited in the EIS (page 62, sect 4.3) that "subdivision lot owners and their friends [such as house-guests, house-sitters, renters, etc.] will have preferential access to the coast... [and] that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with?

Other concerns are that "affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with?

Another concern is that landowners [or their guests] "might call the police if they see the general public walking on the beach, as this has happened at Papohaku." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with?

These concerns listed above from page 62 of the EIS are simply ignored by the EIS on page 63 after listing them. Indeed, the very next paragraph states that "Increased public access to the shoreline... has the potential to damage the natural environment and diminish the uniqueness of the coast," and goes on to talk about its "shoreline access management plan." What about the preferential access? What about homeowners using a vehicle to get to the beach? What about the access being "unequal"? What about homeowners calling the police? Please address each of these.

The owners who live along the shore will be able to access the beach directly. What about the owners who live on the mauka side of the road and will not have shoreline lots? They will want access too. How will they have access? Will they have private rights-of-way? If so, this is even more unequal. What gives them greater right to access the shoreline than the general public? Since they don't have houses along the shore, they are part of the general public too; thus, they should have to access the shoreline from the 2 public access points at either end of the subdivision, just like the rest of the general public.

If these people have private accesses, it is unfair. But if they don't, what is to prevent them from suing to get more public accesses for them? After all, as noted, State and County law is supposed to provide such access, so they would have a strong case.

What is to prevent them from making a private access through the homeowners association and the Land Trust? This needs to be addressed *now*.

The point is that the 2 access thing will eventually be challenged by either a La'au homeowner, or a member of the general public (from Molokai or even the larger State) as being against State and County law. And if the courts say that 8 (or even 4) more accesses must be put in, so much for all the subsistence protection that is dependent on, and will supposedly come from, having just 2 accesses.

A concern stated by the community in the EIS is that "homeowners will be insensitive and intolerable of subsistence activities in what new homeowners perceive to be their front yards." How is this mitigated in the EIS? How will it be prevented or dealt with? Please don't tell me that the "perpetual right to subsistence will be noted on the title" to the property, or that homeowners will "take a class with a kupuna," or be taught "expectation management" and respect. What good will the title notation do in preventing insensitive guests, house-sitters, renters, or other family members whose names are not listed on the title, and have never even seen the title? (The only good that notation does is if one of the homeowners tries to sue a subsistence fisherman for taking fish from "my beach.")

I'm not saying I don't support the idea of having 2 access points - I do - I'm saying that it won't work in an area that has been subdivided with luxury houses (for the myriad of reasons given in this section).

Community mana'o on page 107 of the CIA: "They going keep us out. They going to monitor us. Some guys come out and say, 'What you doing on my beach?'...I say, 'This is our beach.'" Do you recognize the potential here for conflict and even violence? A homeowner telling a longtime Molokai resident who is subsistence fishing on the beach that he is on "my beach," could provoke a violent response. Do you really think you can mitigate such potential through "education" of either party to teach "respect" or "expectation management?" Please cite some precedents, either locally or nationally, where this has actually worked.

Imagine a subsistence fisherman, who walked in 3 miles from one of the access points near Hale o Lono to gather food for his family, encountering a homeowner, (who may have gone through CC&R "education"), along with his 10 guests, (who didn't), having a picnic on the beach - sun-tanning, kayaking, playing frisbee or smash-ball, and with a stereo blaring top-40 music, coolers of beer and soda, and a propane BBQ grilling store-bought steaks, fresh from the freezer. All of these people simply walked right down to the beach from the homeowner's property in a matter of minutes. Imagine how the fisherman (who has fished there all his life) will feel just seeing this scene. Now imagine if the picnickers (perhaps one of the bolstorous guests) challenge the right of the fisherman to be there. "Hey! Hey Buddy! You can't fish here... This is *our* beach!" Can you imagine? This is a recipe for disaster and even violence.

And for some reason Plan proponents and the EIS actually believe they can prevent this type of occurrence from happening by "noting the perpetual right of subsistence on the property titles" and making the property owners take classes that will teach them to malama 'aina, and to respect the land and people. I ask again and again, how can this be so? And again and again, what about

the guests of the homeowners? Will they be required to look at the title to the property, or to take classes themselves before they can have a picnic on the beach?

Hawai'i Revised Statutes Chapter 115-1 states that one of the reasons Hawai'i's rights-of-way and shoreline access laws were created in the first place was because, "the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties." By developing luxury private shoreline properties ringing the entire coastline at La'au - a development the majority of the community doesn't want and is *already* angry about - and then filling those properties/houses with millionaire newcomers who will have preferential access to the shoreline from their properties, and who may even challenge existing residents' (and subsistence gatherers') right to be there, you are creating - indeed *re-creating* - the very conditions and situation that the law was created to avoid. You are creating a situation that may provoke hostility towards both the landowners and their properties, which could also lead to retaliation against subsistence gatherers who are in the area. In short, you will be creating a very volatile situation - and it is not in the public's or Molokai's best interest to allow such a situation (and such a potential for violence) to be created.

I am *not* simply making threats, nor am I trying to predict or condone violence. Again, please see page 15 of the Cultural Impact Statement, which states that it is "probable that subsistence practitioners will be confronted by insensitive newcomers intolerable of extractive activities in what they will perceive to be their front yards," and refer again to HRS 115-1 above regarding "acts of hostility." Both of these support the possibility or probability of hostility/violence; indeed, the law was created to put an end to the hostility and violence that was occurring in the past. In other words, there is great legal and historical precedent for *not* limiting access to only 2 points, especially in an area that is developed with private shoreline properties like La'au is proposed to be.

Again though, if you make more than 2 accesses you lose the protection afforded by having only 2 accesses. So you make only 2 and increase the potential for hostility and violence, or do you make more and increase the potential for destruction and exploitation of resources. It is a real no-win situation. It would be better to simply not develop.

Note: if the properties were moved *way* mauka (inland; not along the shoreline), this risk would be much less, for there would be no need to create more than 2 accesses (since there would be no shoreline subdivision) and the new homeowners would be limited to those same access points like everybody else (no preferential access). Much safer and more fair.

HRS 115-1 goes on to state that "the absence of public access to Hawai'i's shorelines constitutes and infringement upon the fundamental right of free movement in public space and access to and use of coastal...areas." Thus, restricting access to the area, either by having only 2 accesses and/or by requiring people to have credentials (i.e. take "mandatory education classes") in order to gain access will be the type of infringement described above on the "fundamental right of free movement in public space."

HRS 115-1 goes on: "The purpose of [the] chapter is to *guarantee* the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines..." [Emphasis mine.] The right of access to our shorelines is *guaranteed!*

So once again, while I support the *idea* of 2 accesses, I do so if and only if all the shoreline homeowners are *also* limited to those same 2 access points and do not have preferential access from their properties or private rights-of-way. Moreover, while I support this 2-access point idea

for the protection of the shoreline, it is against State Law (and County Law) and will eventually be challenged in court by either a homeowner or a member of the general public. I do not support the idea of needing classes or credentials in order to gain access to the coast, for this is also against State Law.

According to Hawaii law, the State and County have an obligation to provide public access, but if they do not, then citizens have a "private right of action to force beach access," which they will likely use at La'au.

Page 63 of the EIS proposes "controlling access" to the area based on the "access plan" on page 105 of the *Community-Based Master Land Use Plan for Molokai Ranch*. (Appendix A.) This access plan is to "seek an ordinance" to create a non-commercial zone and a subsistence management area. However, to do so "will require special legislation to be enacted by the State Legislature." (p. 165, sect 7.4) There is no guarantee how long this legislation will take to enact, and there is no guarantee that it would even pass. What support does it have in the legislature? This legislation must be enacted *before* any development, and should be part of the permit/entitlement/approval process (and be listed as part of the Permit/Approval chart on page 11, sect 1.7.4). It cannot be an afterthought. What if the Legislature doesn't pass it - what then?

It cannot be "will need" or "will create" for these things - they need to be part of the EIS!

MPL should seek to establish the subsistence fishing zone *now* - and have it be permanent regardless of the outcome of the EIS application.

Developing the La'au area won't protect it from off-shore (Oahu/Maui) boats. Establishing the subsistence fishing zone will. We need the zone either way, but we don't need the development in order to have the zone!

How will dogs running loose along the shoreline affect fish (being scared off from the zone)?

I'm very much in favor and support of creating a subsistence fishing zone similar to Mo'omomi; but let us remember, Mo'omomi doesn't have 200 luxury houses along the shoreline, which would make the area quite different!

Limiting access to the public shoreline is against State Law, which guarantees "lateral shoreline access." Requiring people to take classes and have ID cards(?) to get access to the public shoreline will be challenged. You can restrict what items can be gathered (and when), and monitor and enforce that, but you can't deny access. Even Mo'omomi, the subsistence fishing zone that is to serve as a model for the La'au subsistence fishing zone doesn't control "access," it controls gathering. Neither does Mo'omomi have "mandatory educational classes" in order to gain access. Thus, this will not work, especially when guests of La'au homeowners will have direct access to the shore without any classes. How will they be educated and regulated? It's all unequal and unlawful!

The access plan - having only 2 public access points goes against the Hawaii State Constitution, Hawaii State Law, and the Maui County Code. Thus, the plan in the EIS to control access to the area by having only 2 rights-of-way will not work (because it is against the law). Someone will eventually sue - either a member of the general public or one of the landowners, especially one that does not have a shoreline lot) - and more rights-of-way will have to be opened up, thus opening up the coast to the public and leaving the resources open to exploitation.

Page 102 of the Cultural Impact Assessment states that Molokai residents "fear that the new subdivision will create a segregated community." Indeed, although it is not a "gated community," since there are only 2 shoreline access points, what reason will Molokai residents have for driving through the subdivision? They will likely be eyed with suspicion as if they are scouting homes to break into, and the police may even be called. The CIA goes on to say that "if the residents and the community were both limited to 2 points of access, it would be more fair." [not to mention provide greater protection and isolation]. This issue of fair access has yet to be mitigated, nor has the idea of a segregated community.

Community wants to go on Page 107 of the CIA: "Bummer to walk along the shore and the owner is out there sunbathing or swimming. You can walk for 20 minutes to half an hour and someone is there and has already scared the fish away." This is a major glitch in the subsistence zone protection. How can people catch fish if the fish have all been scared away with kayaks or stereos (boom-boxes) or squealing people playing on the beach?

The subsistence fishing zone should include provisions that restrict or prohibit certain "recreational" activities. For instance, kayaks should be prohibited except if they are being used for fishing. Stereos should be prohibited on the beach. Frisbee or smash-ball playing should not be allowed, etc. After all, it is a "subsistence" area, not a "recreational" one. Since the homeowners supposedly will have been "attracted" to La'au because they support conservation, and have signed the strict CC&Rs, and have been to education classes that have taught them to respect subsistence rights and "malama 'aina," they should have no problems with these additional regulations, right? Please address these points.

It's a real conundrum. In order to protect the area you need to restrict access (2 public accesses instead of the mandated 16). However, because the millionaire homeowners and their guests will have *direct* access to the shoreline from their shoreline properties - by foot or vehicle - and the public has only 2, this will give the millionaires preferential and unequal access. In essence it means that there will be over 100 private accesses to the shoreline (from the shoreline lots) and only 2 public accesses for everyone else. And what of the La'au homeowners who don't have shoreline lots (who have property on the mauka side of the road(s)). Will they have some kind of private access rights-of-way too? Why should they? They are part of the general public too (just like everyone else on Molokai that doesn't own a La'au shoreline lot). Or will they be restricted to the 2 public access rights-of-way like everyone else, and have to drive down to one of the two to get to the beach? Do you think they are going to want to do that? Somebody will end up suing that the restricted access is against State and County law (which it is), which will open up the area to greater access, thus destroying the protection supposedly had from having just two accesses. If they were to get private rights-of-way, this is even more preferential and unequal. If they don't you can bet they will sue to get public ones for them close to where they live. So, either the Molokai public or the non-shoreline homeowners may sue to get more public access-ways, albeit for different reasons. However, the result is the same and the protection of the area from limited access is gone. At the least there will be more than 21 Garans!

The EIS states that "Existing residents may appreciate the ability to visit La'au Point, a previously inaccessible area." Uh...how is it inaccessible now? And how will the access be different for the public after the development, other than having one park closer on the west side? It is a foot-trail now, isn't the plan for it to still be a foot-trail later?

On page 116 of the CIA regarding trails and access, it says: "Non-Hawaiian access will be determined by the landowner." What the heck does this mean? All shoreline in Hawaii is public.

Are you setting up or trying to create another challenge to Hawaiian rights by excluding or restricting non-natives from the shoreline?

Why will MPL employees have seniority and priority for subsistence hunting? (CIA p. 20) Just cause they have had privileged access all these years? But MPL will no longer have exclusive control over the land -- it is supposed to be for the community. Longtime kama'aina of the ahupua'a should have seniority and priority. And does this mean that a new employee of Molokai Ranch -- even someone who is a newcomer to the island but happens to work for the Ranch -- will have priority? How is this fair?

These sure are a lot of rules and "kapu" for fishing and hunting. (p. 119-122 CIA)

Alternatives

Page 145 states that with the "No Action" alternative, the "direct and indirect impacts would not occur." Obviously they are referring to positive impacts; however, I must point out that the direct and indirect *negative* impacts would not occur either, so that would be "offset" just fine!

What is to prevent the Ranch from developing La'au and *then* doing some or most of the *other* alternatives suggested, such as the Kaluako'i rural subdivision/golf-course, Kaluako'i resort, Maunaloa Agricultural subdivision, etc. (the ones in Table 7, p. 150, sect 6.4)? They reject all of these based on "unacceptable population increase," but again, what prevents them from just doing it later anyway?

Please don't tell me that what prevent them from doing this later is the covenants the Ranch will sign, which are supposedly enforceable by the Land Trust. If the Land Trust is controlled by the Ranch (e.g. there are Ranch/MPL members on the Board), and the Land Trust is supposed to enforce the covenants signed by the Ranch regarding no future development on easements and other land, then this is a conflict of interest. How will this be prevented?

Page 144, sect. 6.0 of the EIS, states that "Community concerns were raised about homes at La'au Point and whether MPL had been diligent in seeking alternatives that would be more acceptable to the community." These concerns are still present and still raised; they have *not* been satisfied by MPL or this EIS, nor has MPL been diligent in *sincerely* seeking alternatives or giving them real chances to work.

"Alternatives to the proposed action...are limited to those that would allow the objectives of the project to be met, while minimizing potential adverse environmental impacts." (p.143, 6.0) This is ridiculous. In order for any alternative to actually work, you have to be willing to modify *some* of the objectives in the plan to allow alternatives to work. Even if the law allows you to stick to your stated objectives, if you really care about the community, you would be open to modification. You can't have a real alternative if you say that *all* the plan's objectives must be met in *exactly* the same way, and that the Ranch must make the *exact* same amount of profit as from the La'au development. An alternative, by nature, will involve a different set of variables and conditions -- the important thing is that it is a win-win. Right now, the Plan, as long as it includes La'au, is a win-lose.

Section 6.1 of the EIS, the "No Action" Alternative," states that "the property would remain vacant of any additional improved uses...[and the lands] would remain as fallow agricultural land...[and] underutilized due to the poor soils." The community prefers that the land remain "vacant" that is, "unoccupied" with human beings. That way it can remain occupied with animals and native plants, along with all of Nature.

The EIS claims that the soils at La'au are no good for agricultural uses (i.e. "poor soils"). This may be currently true; however the quality of the soil can be improved for agricultural uses through the planting of cover crops and other types of vegetation. Indeed, Jason Scott Lee, an apprentice of Japanese Master Natural Farmer, Masunobu Fukuoka (also known as the father of sustainable agriculture), has proposed doing just such a thing at La'au. His plan, which incidentally was never sincerely considered as an alternative at La'au, involves the planting of a 3-tier system of vegetation at La'au starting with ground cover like alfalfa or clover on the first level, short brush such as berries on the second, and fast-growing canopy trees on the third." Basically it means starting with cover crops to improve the soil and progressing to selected food crops to feed the people. Mr. Lee says that "the system would require no fertilizers, pesticides, or even maintenance...you could grow things wild." Not enough water you say? Master Fukuoka has created planting methods designed to both prevent and reverse desertification (agricultural lands turning to desert) and is internationally renowned for his work. If such planting methods can be applied to desert, surely they can be applied to the La'au area as well. Not to mention the fact that Mr. Lee is both an apprentice of Mr. Fukuoka (and thus could help implement such an endeavor), and a vocal opponent of the La'au development. This alternative should be explored further by the Ranch and the Molokai EC, for it has the opportunity of providing food for the community (and greater self-sufficiency), and is, as Mr. Lee says, "just one of many alternatives to commercially developing the area." [Quotes from the Molokai Dispatch 11/16/06]

Papohaku/Kaluako'i houselots can be subdivided, and probably will be! This will increase the population and increase water use. So, the restriction on La'au subdividing in the CC&Rs does very little from an island-wide perspective. Might as well just do these alternatives instead of La'au since they are *already* in the community plan and legal, and will probably be done anyway.

Page 146 of the EIS states that while the "No Action" Alternative would allow the environments of La'au Point to remain untouched to the benefit of those opposing development, negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales...appear to have more far-reaching effects upon the economic and social fabric of the larger Molokai community." I strongly disagree...

First, the benefit of leaving La'au "untouched" would not be only be to those "opposing development." You forgot the benefits to the island, the community, and to La'au itself (not to mention all the animals, plants, and qualities of the La'au area.) Moreover, since the majority of the community is in opposition to the La'au development, it makes logical sense to provide that benefit (it is what the community wants.)

Second, the negative effects of developing La'au will have much more far-reaching effects on the economic, social, cultural, and spiritual fabric of Molokai than any "negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales." Indeed, the Ranch makes such intense predictions of doom if they were to leave:

- *unknown risk*, of
- *probable land sales"*

Basically the collapse of the local, Molokai economy. How dire!

These predictions are nothing but veiled threats and "sticks" meant to instill fear in the Molokai community so that they will support the La'au development.

If you disagree with or deny this statement above that the majority opposes the development, then please conduct an official public/community referendum to prove me wrong. Do you disagree or deny it? If so, why? If so, when will you conduct a referendum? If you won't conduct one, why not? What are you scared of? You claim to have "broad-based community support." Wouldn't such a referendum prove such a claim?

What has the Ranch done in order to seek a "conservation buyer" for La'au - one of the most preferred alternatives presented by the ALDC ("Purchase of La'au Parcel" page 156 sect 6.5.2)? This is a favored alternative because it would preserve La'au as is (like in the "no action" alternative), while still getting Molokai Ranch the revenue to renovate the hotel, and could still create a subsistence fishing zone. Page 157 of the EIS states that "Should a serious buyer emerge, MPL will enter meaningful negotiations with that party or parties." What has MPL done to seek such a buyer both locally and nationally? If you have done nothing, why not? There are a lot of wealthy individuals as well as public land trusts throughout the country who might be interested in such a thing, but they will never "emerge" if you do not seriously and sincerely get the word out about it.

Page 157 also states that: "If a purchaser offers this company a price for the La'au parcel that is equivalent to its development return, protects areas for subsistence as proposed, and provides and endowment income to the Land Trust/CDC as proposed under the La'au Point development plan, it will seriously consider the offer." This is ridiculous. The estimated cost to develop La'au is \$88 million, with \$200 million in sales of the La'au lots. This is a \$112 million return! Is this really the price MPL would consider? Isn't that quite high considering MPL bought the parcel for \$12 million? If that really is the price that would be considered, doesn't this effectively close off this alternative? The hotel only needs \$35 million for renovations anyway, right? So how much is that endowment going to be - \$77 million? How much profit does the Ranch expect to make from La'au?

Page 158 states: "Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant *Community-Based Master Land Use Plan for Molokai Ranch*. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time." This is another threat and a rejection of alternatives. The Ranch is saying this is the "only" way; there are no alternatives to La'au besides closing down business and selling off the land. This means that the Ranch is not even open to considering alternatives; so how could the Ranch possibly have been diligent in researching alternatives as required by law, if they truly believe that none exist (and that it isn't even possible for any to exist)?

The La'au development should be part of the chart on page 150-151, (Table 7) showing water use, population, financial return, etc. so that the public can adequately compare the numbers of the La'au development versus the alternatives without having to flip all over the EIS for numbers on La'au. Same for the breakdowns for each alternative on pages 151-154; there should be a breakdown for La'au in the same format to make comparisons easier and more accurate. The "No Action" Alternative" as well as the ALDC's alternatives of "New Town" and Conservation Buyer ("Purchase of La'au Parcel") should also be part of this chart and these breakdowns.

Page 157, sect 6.7 of the EIS ("Postponing Action Pending Further Study") states that "postponing or delaying the La'au Point project for reasons, such as allowing the ALDC to find the necessary funds to purchase La'au Point, puts MPL in the positions of being unable to

continue its ongoing operations on Molokai." But MPL is *already* being supported by its parent company (BIL). Surely they could support MPL for another year or two while these alternatives are *sincerely* researched, and funding/buyers *sincerely* sought. (This EIS and entitlement process, especially when you consider delays from inevitable lawsuits, could take that long *anyway*, and BIL has equity of 1 billion dollars to provide that support.) If MPL was truly committed to finding alternatives, they would give this option a chance. Sounds like MPL simply doesn't want to find an alternative. Indeed, MPL talks about not being able to give the ALDC time to find funds... But why doesn't MPL participate wholeheartedly in this effort and use their international network to *help* to find those funds? After all, it is what the community wants and would be a win-win for everyone - the Ranch would get their revenue and the community would be able to Save La'au!

What about the "Wat'eii" alternative mentioned in the CIA on page 138, which was proposed because it would have less impact on resources, sites, and place. Apparently the Ranch dismissed this alternative due to water and population increases; however, it was not addressed or discussed in the EIS. Please add it to your table and breakdowns and discussion regarding alternatives (pages 150-154).

The CIA states on page 139 that some of the "inland sites in the particular design submitted [for the ALDC's 'view-shed' lots] are extremely significant and highly sensitive?" More significant and sensitive than La'au and the La'au area? Certainly these sites could be worked around (and given protection) at least as much as those at La'au. If not, why not? What sites are being referred to here?

On page 155 of the EIS regarding the ALDC's proposal for a "New Town" and "view-shed" lots, I find it rather convenient for MPL that MPL's analysis indicated that infrastructure and construction would be \$875,000 per lot and would only be able to sell at \$400,000 - \$450,000 per lot. Why are the infrastructure and construction costs so much more than those for La'au? Please explain and show a comparison of how you arrived at these numbers for both La'au, for this particular alternative, and for all the alternatives. What are the cost breakdowns? How can the public possibly evaluate these numbers if you are just saying it will cost more? How do we know that it really costs more without such a breakdown? How do we know you aren't just saying that to support your position?

If the cost to renovate is \$35 million, how about this: Forget the endowment, forget the CDC. Sell or donate La'au to a Land Trust or put all of it into permanent protective easements. Take the \$ from La'au (if sold rather than donated) combined with \$ from sales from Papohaku/Maunaloa lots, and also combined with \$ from BIL (and its 1 billion in equity) and perhaps even some community \$ (from fundraisers or grants) and use all of that to renovate the hotel. Then use the hotel to support the Ranch and all its other operations, as the EIS says it will do. Why not? After all, as I understand the plan, what is really needed is *money* to renovate the hotel. And then the hotel will sustain the Ranch. That is the crux of the matter. Well, there are a lot of *other* ways to generate money, and quite frankly, \$35 million isn't that much. If the Ranch would withdraw the plan to develop La'au, then the Ranch could put all its energy into finding and raising that money for the hotel. And that is something that the *entire* community could get behind wholeheartedly, including those that are opposing the development. All of the energy that is currently being used to fight an unwanted development, could be used to *helping* the Ranch to re-open the hotel, which is something that almost the *entire* community *does indeed* support. Why can't the Ranch see this?

CIA page 115, community mana'o: "if they really paid attention to the community we would find a way much sooner to help out the Ranch, but their mind was set already."

Page 144 of the EIS uses circular logic in its evaluation procedure to support the proposed development. The Ranch says that the Plan calls for creating a Land Trust, a CDC, subsistence zones, protective easements, conservation land, etc.; and thus, there is a need for "economically viable projects" in order to "generate revenue and returns" in order to "make the proposed conservation initiatives feasible and sustainable." The Ranch uses all the proposed and created things to justify the need to develop La'au in order to fund all these proposed and created things. Fine, then lets just drop all of these "initiatives" which would cause the need for the rest of it to drop too. The Ranch says "No La'au, No initiatives." I say, No initiatives, No La'au To paraphrase the testimony of a community member: "With all due respect to the work everyone has put into the Plan, I'd rather see the whole Plan go down the toilet if it has to include La'au." I agree, if La'au is the "only" way for the Plan to work, then lets forget about the Plan, even if ten years were spent in developing it rather than only two.

All the proposed alternatives were rejected using criteria set by the Ranch, and compared to the Ranch's own stated objectives in the EIS. Thus what prevented the Ranch from skewing results to make them look good? How about a neutral, third party analysis of all of the alternatives?

According to page 52 of the SIA, "those involved in the ALDC process felt that their efforts and recommendations went unheeded. They cited the short time frame in which they were to produce their report, and felt that decisions were made without consideration of their input. One person's perspective was that the process employed manipulation, fear-based thinking and a hastened time frame." Is this called seeking alternatives?

Page 18 of the CIA states that: "[The Plan] sets unique precedents for the development of landholdings by offshore corporations...to mitigate the overall impacts of the proposed development." This is another "carrot" for certain community leaders--the opportunity to be an example for the State of "controlled" or so-called "sustainable" development. Look how great we are. We created the most environmentally planned, designed and implemented large lot community in the State. Well I have a better idea: how about an example of a place with *no development!* Sustainable development is a noble pursuit; it is highly commendable; indeed the idea of environmental CC&Rs and building guidelines should be attached to every development in the State. It is definitely the right idea, but it is simply in the wrong place -- La'au should not be the example. Not La'au! Indeed, the more noble approach in my eyes is called *leaving a place alone*. Leave a place -- one of the few and only places left -- that has no development (i.e. it has been spared from development and is still in its wild and natural state). *Let that* be the example for the State. Let the land lie "fallow" and value nature...for itself.

Instead of being a model of sustainable *development* (e.g. an environmentally sensitive luxury residential subdivision), Molokai could (and should) more appropriately be a model of sustainable agriculture and sustainable farming. (Please see one example above regarding Masunobu Fukuoka and sustainable agriculture/farming for La'au Point.)

Page 54 of the SIA states that "people value the pristine nature of La'au Point...Ideally, for them, no change would come to La'au Point." Simple enough!

However the SIA goes on to say that, "Nevertheless [people] are willing to accept the [La'au] Project because they understand that its implementation is the only way the Plan can be implemented." Saying the project is the "only way" to implement the Plan, the

"only...springboard for the Plan," is saying that the Ranch 'cannot consider any alternatives because there aren't any.' That's not right! There are *always* alternatives...

CC&Rs

Page 5 of the EIS states that "residents of La'au Point will be educated and informed about the environment and culture, and taught to 'malama 'aina,' (take care of the land and sea) through strict CC&Rs." We can't even teach many of our *own* people of Hawaii'i to 'malama 'aina' (including many Native Hawaiians), let alone a bunch of malihini millionaires; so what is the precedent for being able to teach rich newcomers these things?

CC&Rs must be shown to have legal precedent -- i.e. that they will *all* hold up in Federal, State, and County law, especially the part saying that they "cannot be changed."

Can MPL absolutely guarantee that the CC&Rs will be unchangeable? Permanently? How so? If not, why in the world should this development be approved since so much of the protection in the EIS hinges on these CC&Rs being unchangeable?

The CIA says that "measures will be taken to assure that the CC&Rs cannot be changed in the future." This doesn't sound too guaranteed to me. What are these measures? When will they be taken? By who?

What is the legal precedent for unchangeable CC&Rs? This is very, very important, for if one falls, they all fall! (That is, if one of them is challenged in court and struck down, that means they are not "unchangeable," and thus all the rest of the CC&Rs are also threatened.)

CC&Rs are currently only "in draft form." Final CC&Rs must be part of the final EIS, and must all be shown to be lawful and truly unchangeable *before* the EIS/development can be approved, not figured out later. You cannot approve development and *then* make up CC&Rs. (p.5) The public needs a chance to evaluate the Final CC&Rs.

Can you legally say "no further subdividing" will be allowed? If so, can you really legally make that permanent (e.g. "unchangeable.")? Even the U.S. Constitution is changeable/amendable.

Who will enforce the CC&Rs? The police? (Doubtful) The developer? (No, they sold it, along with their responsibility). The La'au Homeowners Association?

If the La'au Homeowners association is in charge of enforcing the CC&Rs, what happens if all of the members are simply against them, and they simply choose *not* to enforce them. What then? They may be "unchangeable," but if they are not enforced, they might as well not exist. Who will police the enforcers?

In answer to question 97 of consultant DeGray Vanderbilt comments regarding CC&Rs currently being only in "draft form," the Ranch states that "Design guidelines and construction rules for La'au Point are not yet drafted. Typically CC&Rs, design guidelines, and Construction Rules are not provided in as part of an EIS." Okay, but the La'au Point project is supposed to be "the most environmentally planned, designed and implemented large lot community in the State." (p. 150, CIA; p. 23 EIS) and so much of the mitigation of negative impacts and protection of resources/lifestyle/rights/etc. hinge upon these CC&Rs. It is not your typical development; thus, it should not be your typical EIS. More should be demanded of the developer, since more is being promised. Any mitigation that depends on something not yet created is *not* mitigation. Those

things must be in place as part of the EIS, so that the public can analyze and evaluate them, not proposed as plans that will eventually be done by someone.

Page 29 of the EIS says that "enforcement and substantial penalties will be put in place." Who will enforce? Who will penalize? Again, if it is the homeowners association policing themselves, what is to prevent them from simply looking the other way when other homeowners don't uphold the CC&Rs (i.e. I'll scratch your back, you scratch mine.)?

Some of these CC&Rs may be against the law. And it seems extraordinary that there is no provision to allow changes to them. But, if you make such a provision that allows changes, then the purpose of the CC&Rs falls apart in the EIS. However, it is hard to believe that they won't be challenged by the homeowners as unlawful, regardless of what they "signed," since they had no voice in making them and will have no voice to change them. Again, even the U.S. Constitution is amendable!

Floodlights orientation/shielding will be regulated by the CC&Rs. Will the brightness of the lights also be regulated?

The CIA says that the Land Use Commission can "endorse the guidelines and CC&Rs...[and] assist in the enforcement of the CC&Rs by making them part of the conditions of the re-zoning." But this is currently impossible. How can the State LUC possibly endorse or enforce these guidelines and CC&Rs if they are only in draft form and not part of the EIS in final and permanent form?

The CIA states on page 17 that the covenant document will "place many restrictions on lot owners at La'au Point, in order to attract only those who are concerned about conservation." This assumes the Ranch will actually be able to find these kinds of people who both concerned about conservation and also rich - not necessarily your usual combination (especially when you are talking about finding 200 such people!) Indeed, a lot of people who are truly concerned about "conservation" would very likely be against the La'au development. So how do you expect to find such people? And what if you can't? Will lots then be sold to people who aren't concerned about conservation? Won't that greatly affect a lot of things in the EIS. It seems like an awful lot is hinging on "maybe" being able to find such buyers.

The CIA goes on to state that "MPL will attempt to attract buyers to the La'au Point subdivision who reflect the hopes and aspirations of the community," by using brochures that will be reviewed by the EC to make sure they send the proper message. Again, what if MPL and the EC cannot attract those buyers (because they simply aren't rich enough, or don't think the development was pono)? What then?

One of the consultants asked in his comments what will prevent homeowners from simply draining their chlorine-filled swimming pools directly onto the ground? The Ranch's answer: "Hawaii law regulates how swimming pools will be drained." But the question was not if there was a law; the question was what will prevent a homeowner from simply ignoring that law. It is a question of monitoring and enforcement, which has not been answered. Who will monitor these people to make sure they are following the law? Will somebody be checking up on them every day?

Let me give a different situation to clarify the question. The CC&Rs, rather than Hawaii law, will prohibit pesticides and allow only organic fertilizers. Who is going to check these homeowners' private property to make sure they have no pesticides and only have organic

fertilizer? The homeowner's association? Couldn't they just choose to 'look the other way' on things like this, or on things like the draining of swimming pools?

The CC&Rs are abstract and ambiguous! Take this example of the pesticides and organic fertilizer. Will all pesticides be prohibited? Or will only "synthetic pesticides" be prohibited and natural pesticides (like pyrethrum) be allowed? What do you mean by "organic fertilizer"? Whose definition are you using? Is blood meal considered "organic" or only things like kelp meal? Or will you be following the US certified organic guidelines that define what is allowable as an organic fertilizer? These types of details need to be part of each and every covenant, condition and restriction in the CC&Rs and included in final form in the EIS so that the public can adequately evaluate them. The EIS/development cannot be approved with draft form or ambiguous CC&Rs, and with the details added in after the fact. This needs to be done now.

What about house colors? What colors will be allowed? Which ones will not? Details! And again, who will enforce and regulate this? How? What are the consequences of non-compliance? Will the homeowner have to pay a fine? Or will they have to change the color of their house? If they only have to pay a fine, and since they all will be wealthy, this will not be much of a deterrent for this or any of the CC&Rs; so does that mean, after they pay their fine we will all be stuck with a red house in La'au? And if one house can be painted red, it won't be long before we have a virtual rainbow of houses in La'au, right?

And again, if one CC&R is broken, or allowed to be broken with only the payment of a monetary fine as a penalty, then aren't all of the CC&Rs in jeopardy?

Please discuss what penalties there will be for homeowners for not upholding the CC&Rs. Please give a breakdown for each CC&R, as to what the penalty will be. Please explain why fines will be a deterrent for wealthy landowners who could easily just pay it can continue to disregard the CC&Rs. If fines are to be used, they should be done along with the requirement to correct whatever CC&R has been broken. Thus, if someone paints their house red, they should receive a hefty fine and also need to repaint their house. The fine should increase with each month they do not correct it. A breakdown of penalties, consequences, and fines should accompany each final CC&R in the EIS so that the public can evaluate if the penalties are strict enough to encourage compliance.

Community manager (p. 124 CIA): "[A] \$2000 fine is nothing to them. Not going have someone there all the time to make sure they won't damage the conservation. Should lose their land." [Emphasis mine.]

Page 9 of the EIS states that the CC&Rs will "encourage energy-efficient design." Encourage? Who will enforce? And how will it be encouraged anyway - with tax incentives for wealthy landowners who don't need them? What will the encouragement/incentives be?

Page 23, section 2.2.1 of the EIS says the restrictions placed on the landowners will attract "only those buyers who are concerned about conservation." Please tell me, who that is concerned about "conservation" can afford \$1 million luxury homes, besides celebrities? And even, if you do find some, do you really think you can find 200 of them?

Page 16 of the CIA states: "MPL clarified that the lot owners will be required to uphold the CC&Rs." Yes, but once MPL sells the lots they will no longer have any responsibility to make sure the homeowners actually do so. This will be up to the Homeowners Association made up out of...the homeowners! These people might not be able to change the CC&Rs, but they can all

look the other way and not uphold/enforce them. For if they all decided together not to, who will make them? Who monitors the monitors? Who enforces the enforcers?

Development and Environment

There are so many things in the EIS meant to "protect" the La'au area - especially the natural environment. Yet the Cultural Impact Assessment calls the La'au area "pristine." Which leads to a question that Consultant DeGray Vanderbilt asked in his comments, "What is the reason(s) La'au Point is the unspoiled coastal environment it is today?" The Ranch's answer: "La'au Point is currently vacant, undeveloped land." [Emphasis mine.] That is a very telling and important statement. This undeveloped, unoccupied land, provided the greatest protection during all these years - much greater than a "controlled development" or an "expanded conservation zone" or any number of management plans, rules, and restrictions. Yes, it would be good to expand the conservation district, make a subsistence fishing zone, and get the commercial fishing boats from Oahu/Maui out of there - and this should be done *regardless* of the outcome of this EIS; but the reason that La'au is so unspoiled and pristine - even in today's modern, polluted, overpopulated world - is simply because it has been left alone - undeveloped and unoccupied (as the Ranch points out). Thus, let us leave it that way in perpetuity for the generations that will follow.

The Cultural Impact Assessment, on page 155, says that "this plan takes risks." But the risks are too great. The whole thing - the CC&Rs, the access plan, is all a big risk! And the price for failure is profound.

Page 8 of the EIS states that "the project area [is] on only eight percent of the La'au parcel... [and] this keeps the remainder of La'au's 63-48-acre TMK parcel in open space." This is a misleading statement. Indeed, in a contradicting statement on page 24, the EIS states that "the project area [is] 1432 acres." This means the project area is actually 23% of the La'au parcel not 8%. Sure, the Ranch means only 8% of the lands will have private property lots with houses, but the public should realize that 23% of the La'au area will be developed, altered, or directly impacted in various ways.

The above statement is also misleading because this 8% of the parcel stretches for 5.2 miles along the shoreline. The rest of the parcel is up mauka. The Ranch rejected alternatives to develop the mauka area instead and leave the shoreline alone because they *claim* they would not be able to get enough \$ per "view-shed lot." (p. 155)

In response to consultant DeGray Vanderbilts inquiry into details regarding the sales, acquisitions, land-use, and land-use history of Kaluako'i, the Ranch states that these details are "not relevant to this EIS for La'au Point." I disagree. Everything about Kaluako'i is relevant since the La'au project is needed *for* Kaluako'i. They are linked throughout the EIS and the Plan ("No La'au = No Kaluako'i hotel = No more Ranch"). Thus the Ranch has made such details relevant by tying the two areas/projects directly together. Indeed they are using Kaluako'i as the "carrot" for La'au. (The Kaluako'i hotel and the Land Trust are the "carrots," and the threat that the Ranch will have to close down, leave Molokai, sell its lands, and lose all its jobs, are the "sticks.") Can and will the Ranch now answer the question about Kaluako'i?

What about chemicals from all the sunscreen that will wash off into the water? How will this be mitigated?

Page 169 of the EIS states that: "The findings of the Cultural and Social Impact Assessments provide... rationale for proceeding with the project based on community input." Please read the CIA and the SIA. The majority of the community input in these assessments is overwhelming

against the project! The SIA and the CIA may have provided certain rationale for proceeding in their conclusions, but the community input within these assessments does not support that position. Indeed, there is just as much rationale for not proceeding, if not more, based on the community input. Please read the community's quotes!

Development is like a cancer. Once it starts it will spread. Once it starts it is very hard to stop. "After all," a developer will say, "there is already one development, why not two? There are already 200 houses, why not 300 or 400? Molokai allowed this one at La'au, why not a new one at Paia'au?" The best "cure" for cancer is prevention - don't let it start in the first place. Don't allow the development to start. Like cancer in a body, it will kill the island of Molokai. How can you let that happen?

Flora

On pages 6 and 43 of the EIS, it says, "Only the 'ih'i'ihilaaukea (Marsilla Villosa) population is located within the proposed development area. Buyers of lots where 'ih'i'ihilaaukea is present will be notified, and a management plan will be developed for the conservation of rare species." However, in the Botanical Study (Appendix B, Sect. 4) it says, "None of the significant plant populations are found within the areas indicated for the 200 house lots or rezoning from Ag to Rural... Marsilla Villosa populations are all found within the existing or proposed conservation districts...." This is a contradiction. Is the 'ih'i'ihilaaukea within the development area (the area where there will be houses) or not? Pages 6 and 43 say yes and that buyers will be notified about it being there. The Appendix says no, there is none.

Page 43 of the EIS says the "management plan is to be developed by the Land Trust as the easement holder." *To be developed?* The management plan(s) need to be created *now*. How can the public possibly and adequately evaluate any plan(s) if there is no plan included as part of the EIS?

Like so much in this EIS, the developer is passing on the responsibility of mitigation and protection to someone else - some *other* organization who is supposed to come up with a "plan" ..eventually. Indeed, according to this, it appears the plan won't be developed until *after* an endangered plant is found, rather than preparing the plan now, which is what an EIS is supposed to do.

How will dogs running loose along the shoreline affect the 'ih'i'ihilaaukea and other plants?

How will you prevent dogs and/or people from tromping on the 'ih'i'ihilaaukea and other plants?

What about the 'ih'i'ihilaaukea "seedbank?" How will the bulldozing and clearing of land for lots and roads affect this seedbank, which lies mauka of the shoreline? Was the seedbank taken into account when planning setbacks and other zones?

The Botanical Survey (Appendix B) was done over a matter of days. How does the survey account for longer seasonal blooms of 'ih'i'ihilaaukea and other native plants, some of which may have 5 or 10 year cycles, and thus, may not have been evident during the time of the survey in areas proposed for houses, or in blooming amounts/numbers that may occur on a longer seasonal basis?

Does the EIS statement that "species could readily relocate and re-populate adjacent open spaces" apply equally to monk seals and turtles?

FAUNA
How will dogs running loose along the shoreline affect monk seals? How will any impacts be mitigated?

How will streetlights and lights from houses affect monk seals, turtles and seabirds? How will this be mitigated?

The EIS states on page 65 that "Earthmoving equipment is expected to be the loudest equipment used during construction." What will be the effect of this noise on monk seals, birds, turtles, and fish (who may be scared off out of reach of subsistence gatherers)? Please address each separately.

How will everyday residential noise such as from stereos, TVs, cars/trucks, power tools, etc. affect monk seals, turtles and seabirds? How will this be mitigated?

Page 44, section 3.7, says that: "The project increases the potential for interactions between humans and the endangered species [e.g. monk seals]." Uh...you think? And again, the EIS proposes mitigation that depends on "education," "protocol," laws, enforcement, and wishful thinking to mitigate these impacts, rather than by simply not developing the area in the first place. If you don't develop there is no chance for increased interaction and harm. Indeed the EIS states: "Residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction," which, of course, is to "notify National Marine Fisheries... who will then put up tape around the site to keep people from approaching too closely." Do you realize how ridiculous this sounds? Putting tape around them to "protect" them, in a place where they are currently protected by the isolation of the area, and when they would have so much better protection by not putting a bunch of houses and people along that pristine shoreline that they inhabit.

Moreover, this all puts an awful lot of faith into people -- that they will actually do what they are supposed to do (i.e. "the appropriate human behavior"). Page 44 states that monk seals like "deserted beaches [and] benches not heavily used by people." The development would cause these beaches to no longer be deserted and to be much more used, and will thus impact and affect the seals greatly. It would be so much better to just leave the place alone.

And how will the people be educated? "The information would be included in the CC&Rs and other educational materials given to La'au Point buyers." (p.44) How will you ensure that they read them? What about the other members of their families? What about their guests, house-sitters, or renters? Will they be expected/required to read this information? Who will ensure that they do? Will the homeowner be expected to give a little class for each of his guests and/or sit them down with the material to read? Who will verify that it is done? If he is not required to do so, how will these other people learn the "appropriate human behavior?" What consequences will there be for the homeowner if he does not educate his guests on these matters?

Page 44 also states that: "The impact of the La'au Point project on birds is not expected to be significantly adverse. [Since] the vast majority of the parcel will be left in its natural condition, these species could readily relocate and re-populate adjacent open spaces." How arrogant! They were, and are, there first! This is the typical western colonizer perspective -- "the natives can just move out and re-populate elsewhere." In this case, the natives are the animals and plants! I got a better idea. How about our supposedly enlightened and superior species *not* locate there in the first place and go and do our populating (and over-populating) in other areas, adjacent or not?

Land Trust

The EIS states that the lands of the Land Trust can "never be sold." Is this true? Why? How? What if the Trust goes defunct? What then?

Can the lands in the Land Trust be developed (by the Land Trust)? In other words, could the Land Trust just end up being another Molokai Ranch...another developer?

Consultant DeGray Vanderbilt asked in question 43 of his comments: "Will the Land Trust have jurisdiction over future development on its lands?" The Ranch's answer was: "The Land Trust will own the lands...[the Ranch] is unable to respond on their behalf regarding future development." May I respectfully suggest then that the Ranch go and ask the Land Trust for an answer regarding this question. The Public should have a chance to evaluate the Land Trust, and what it will and will not be able to do with its lands. This is even more important since the EIS continually uses the Land Trust to "offset" negative impacts of the development. The EIS also suggests that much land will be "protected" by and through this Land Trust. If these lands can just be developed anyway, what good is the Land Trust? The public has a right to know, and thus the Ranch needs to get an answer to this question and include it in the EIS.

Page 19 of the EIS says that "The easement lands will remain in MPL ownership; however, they will be covenanted with restrictive easements enforceable by the Molokai Land Trust." If the Land Trust is controlled by the Ranch (e.g. there are ranch members on the Board), and the Land Trust is supposed to enforce the covenants signed by the Ranch regarding no future development on easements and other land, then this is a conflict of interest. How will this be prevented? In other words, the Land Trust is supposed to enforce the covenants regarding easements, but what if they don't (especially if there are MPL people on the board)? Who will enforce the enforcers?

The homeowners with the Land Trust will "jointly control the coastal Conservation District areas." (p.28) So that means the homeowners will have a lot of say regarding what can and can't go on in this area, right?

Will the restrictive easements be permanent? (e.g. unchangeable -- as in "permanent protective easements" which you call them in the EIS?) What guarantees are there that these cannot be changed?

What guarantees are there the Ranch won't develop La'au, re-open the hotel, and then re-close the hotel soon after as "falling"? Or simply sell the hotel to someone else after all of this? What guarantees are there that the Ranch will actually use the La'au sales money to renovate the hotel (and actually use the whole estimated \$35 million to do so)? The Ranch could easily just take the La'au profit and run (i.e. close business and leave Molokai anyway). What is to prevent this?

The EIS, on page 112, says that 14,390 acres will be put into easements for "agricultural use." Excuse me, but doesn't this mean that "agricultural houses" can be developed, even luxury ones like the Hokulia development on the Big Island and other islands? Ag. zoned; big houses; no agriculture going on...

The lands to be given to the Land Trust for protection are lands that *already* have protection from development based on what they are. For instance:

- Kawa'aloa Bay, where the Ranch once wanted to put a resort, is *already* protected by virtue of being the most famous and largest burial grounds in all of the islands.
- Ka'ana is *already* protected by virtue of being the "birthplace of hula." Can you imagine the outcry if the ranch tried to develop such a place?
- Na'iwa is *already* protected by virtue of being the only traditional makahiki grounds that remain intact in the islands. Proposed development of a golf course was defeated here 20 years ago!

Yes, these lands certainly do belong in a land trust. However, no developer would be able to touch these places due to their significance; so, the "gifting" of these lands to the Land Trust for "protection" is simply a smokescreen for the Ranch to get La'au.

Furthermore, the other lands to be "permanently" protected as part of the Land Trust will only be in exchange for La'au - through the destruction of La'au. Indeed, as a respected community member said recently: "It's not about what the Ranch is planning to give. It's about what they are taking away."

Light Pollution

Will there be streetlights along the roads of the subdivision? If so, how will this contribute to light pollution? What regulations will there be on these streetlights - type, orientation, brightness, etc.?

How will streetlights and lights from houses affect "Cultural Astronomy," (the ability to see the stars for the study of traditional non-instrument navigation and cultural time-keeping). This was not addressed in the Cultural Impact Assessment or the EIS.

Mitigation of Impacts versus "Offsetting" Impacts

So many impacts; so much to be mitigated, and all of these impacts can so simply be avoided by not developing La'au.

The EIS states that "the La'au project should proceed because the negative impacts of the project will be offset by substantial positive impacts..." I disagree, and in fact think it is just the opposite: "The La'au project should NOT proceed because the positive impacts of the project will be offset by substantial negative impacts."

The EIS, on page 111, describes all the places that will be "protected" by the Land Trust. But La'au will be destroyed!! Land is 'ohana (family); sacrificing one member of the 'ohana for another is not acceptable. If you could simply understand this, you could understand why La'au is being opposed.

Page 12 of the EIS lists the "Probable adverse environmental effects that cannot be avoided:

- changes to the character and visual appearance of the site
- unquantifiable impacts to the overall spiritual quality of the area
- changes to the experience of fishing [and just being] in an isolated area
- differences in values and lifestyle of new residents
- increased water and electrical power consumed
- increased wastewater and solid waste

Indeed, these are some of the main reasons for the opposition to the La'au development. Since most are "unquantifiable," and things of feeling, perception and experience, they are difficult to adequately explain in words. How can words capture the feeling and experience of solitude? How can you explain the experience of "spiritual quality?" These unquantifiable, immeasurable,

qualitative factors are the ones that *matter most*, and again, some of the main reasons for the opposition to this development. The developer tries to rationalize them on page 13 in the "Rational for Proceeding Notwithstanding Unavoidable Effects" (1.7.9) by saying that the "negative impacts will be offset..." No way! You cannot "offset" non-quantifiable, qualitative effects with quantifiable ones. They don't cancel out. "Spiritual quality" is *not* "offset" by economic numbers, jobs, parks, or acreages in a Land Trust.

And again, these are "probable adverse environmental effects that cannot be avoided *if you develop*]. If you don't develop there are no adverse effects. But if you do, then they cannot be avoided - cannot be mitigated. Thus, the development/EIS should *not* be approved!

The problems are created *because* of the development! No development means no impacts, which means *nothing to mitigate!*

In most of the EIS the Ranch is not mitigating specific concerns and negative impacts at all. They are simply saying that the concerns negative impacts will be "offset" because of positive things and positive impacts in other areas (Land Trust/Jobs/etc.). Indeed, page 58 of the EIS states that: "negative impacts would be offset with the gifting of important legacy lands to the community."

The Ranch is basically saying: 'There is a concern or negative impact; but, you can't do anything about it because it is unavoidable and inevitable; however, it will be "offset" by some positive impact in a completely different area.'

For example:

- Destruction of spiritual quality of area supposedly offset by land in Land Trust
- Scenic views destroyed supposedly offset by jobs at hotel
- Newcomers clashing values supposedly offset by CDC endowment
- Preferential access of homeowners supposedly offset by public access and subsistence access rights
- Etc.

Mostly they simply gloss over (or ignore) the negative impacts by saying, there are so many positive impacts in other areas, so don't worry about that specific thing/concern/negative impact. That's like saying its okay they are developing La'au because they are *not* developing Mo'omomi. Or 'I know you are starving, but hey, at least you have a roof over your head.' (Actually they really do say this first one - Kawa'aloa in the Mo'omomi area will be protected from development if the La'au development is allowed to proceed.)

For many things in the EIS the Ranch is not "mitigating impacts," they are offsetting them, which is unacceptable. The EIS is supposed to mitigate, not "trade." It's like if I say that I am concerned about sewage spills into Kailua Bay on the Island of O'ahu during heavy rains, they say that is simply an "unavoidable impact" and an "inevitable consequence" of an old, overloaded system due to population growth; so nothing can be done about it; however, this "negative impact" will be "offset" by the planting of trees in downtown Honolulu, which will help beautify the city (and even add more oxygen to the air!) Okay...but what about the sewage!

This is what they do throughout the EIS - they rarely address the problem, concern, or impact directly or show how they will fix it. They just say that it will "offset" or "balance out" because of some positive thing that will occur in some other area. Do trees really balance out sewage? Or they say that some other group will *eventually* create a plan to deal with it at some unknown point in the future. They take a concern and say: 'Yah, you're right, that probably is going to happen, and there's not much that can be done about it because it is simply an "inevitable consequence" of

development/growth, so you're just going to have to live with it; but hey, we're doing all these other positive things in other areas that should make it easier for you to live with negative ones (you know, they will "offset.")

This "offsetting" stuff is like a person saying, 'I drink lots of beer, I smoke 3 packs a day, and I eat high-fat fast food and meats with a lot of nitrates, but that's okay because these negative impacts to my body should be offset by the fact that I eat 5 fruits and vegetables a day and exercise three times a week.' Do you really think that this is possible? The negative impacts are much more lasting and have much deeper impacts than the positive ones. The positive ones may do a body good, but the negative ones *harm* a body deeply. It is better to just "do no harm" in the first place. So it is with EIS and the La'au development.

Page 17 of the Cultural Impact Assessment says the spiritual quality of La'au "cannot be quantified," yet by referring to this quality as, "spiritual resources," or to qualitative views of nature as "scenic-view resources," (as is done in the EIS) the Ranch does indeed attempt to quantify them. The Ranch tries to make them into "things," so that they can then be traded, or exchanged, or "offset," by other things that are indeed things, (like jobs, or acres of land, or money). This is unacceptable. It is also unacceptable to say that because they are things of quality nothing can be done to mitigate their loss.

Another way to look at it is like this: The Ranch is using a form of distraction ("Hey, what's that over there?") Someone in the community will raise a concern like, "The spiritual quality of the area will be affected and the monk seal habitat will be impacted. And the Ranch will say something like, 'Yah, we know and... Hey, what's that over there? Look, it's a Land Trust! It's an expanded conservation district! It's a park! It's jobs! Look!' They never really address or fix the problem, they just kind of bluff their way through with this cunning sleight of hand.

This idea of "controlled development" is referred to frequently. You can't control it, there are too many variables.

Consultant Kimo Frankel said that "The discussion [in the EIS] should be even handed and not rely on self-serving statements." In my opinion, the large majority of this EIS is full of self-serving statements. Any response?

He also said that an EIS is a "full disclosure document." There is a lot of information and opinions that are buried within the Cultural Impact Assessment and the Social Impact Assessment, that were not included in the main text of the EIS. The Ranch selected certain parts of them and/or quoted partially or out of context to create summaries that are very "self-serving" and hardly seem like full disclosure. Any response?

Nature doesn't need our help. Nature needs us to get out of the way. Leave her alone. The Developer is making all kinds of plans to mitigate problems and negative impacts, but it is *the Developer* who has created the problems and impacts in the first place (through the development). The Developer thinks it is so clever for solving problems, when it would be *wise* to not create the problems in the first place!

Noise/Noise Pollution

Section 4.5, page 65 of the EIS states that the main current "noise" at La'au is "ambient noise from wind, birds, [and] the ocean" - i.e. the sounds of nature. Man, can you "hear" the silence? There is great value in this type of silence, and this type of natural "noise." We need to protect it.

Note: "Noise" is usually defined as "unwanted sound." For most people, the sounds of nature are not unwanted and are often relaxing; thus, they are not usually referred to as "noise." Man-made sounds, on the other hand, like those described below, are often very intrusive, and thus, are indeed considered "noise."

The EIS states that "Earthmoving equipment is expected to be the loudest equipment used during construction. However, given that the nearest residential property is more than a mile from the site, there will be no noise impact due to construction-generated noise in the vicinity." What do you mean "no noise impact"? This thinking is way too narrow, as it is only focusing on how noise will affect residential properties/houses. It needs to be more holistic, and consider how the noise will affect the whole La'au area, and what else it might/will impact besides just houses and people. The "nearest residential property?" What about the effect of the noise on the solitude and spiritual quality of La'au - a place where, currently, you only hear wind, birds, and ocean? Such noise will greatly affect the nature of the place! What about its effect on monk seals, birds, turtles, and fish (who may be scared off out of reach of subsistence gatherers)? Please address each separately. This is not even addressed in the EIS, let alone mitigated.

As I understand from the EIS, infrastructure development is supposed to go on from 2007-2012, with construction from 2010-2023. This is at least 15 years! Do you really consider 15 years to be "short-term construction activity noise?" (page 65) Even if the heavy earthmoving equipment only goes on for say 5 years, there will be construction noise from hammers, nail guns, power tools, generators, trucks, etc. for 10 - 15 years! Please address this in the EIS. Compared to forever, it is short-term, but 15 years of construction noise and noise at La'au point will have a major impact on the area, the people who go there, and the animals.

Page 65 states that long-term impacts may be from "stationary mechanical equipment typical for residential housing," but that noise will be mitigated because this "equipment must meet State DOH noise rules." Yes, but this is a pristine area and supposedly "the most environmentally planned, designed and implemented large lot community in the State," (p. 150, CIA, p. 23 EIS) The rules for noise and equipment must be stricter than the norm.

Noise pollution is real, and it is the cumulative effect of all the various kinds of man-made noise that will affect the quality and experience of La'au.

Noise and sounds can travel great distances, especially over open areas. The EIS says that nearest residence is more than a mile from the project site. Yes, but the beach and shoreline is much less than a mile from the site. Indeed, for shoreline lots, the greatest distance apart they will be is 1000' (most of the time much less -250'-500'). There will be ongoing construction noise for 15 years, less than 1000' from the shoreline that will propagate in all directions, affecting fauna and destroying the wilderness nature and spiritual quality and solitude of the area. Please explain how that could not be so.

How will everyday noise from people, stereos, TVs, cars, cell phones, power tools, voices, etc. (see list below) affect the experience of solitude and the spiritual quality of the area? What about the peace and peacefulness of the area? How will this be mitigated? How can it be? Sound travels

far! Setbacks do nothing for noise. You cannot contain this everyday man-made noise, these signs of "civilization."

How will everyday residential noise such as from stereos, TVs, cars/trucks, power tools, etc. (see list below) affect monk seals, turtles and seabirds? How will this be mitigated?

Here is quick list of some of the everyday noises and commotion that will be coming from every house, lot and/or roadway in the La'au area, and propagating in every direction throughout the area: cars, trucks (including garbage trucks and delivery vehicles), car alarms, TVs, stereos, generators, power tools, hand tools (hammers and nail guns), voices, yelling, singing, parties, emergency-vehicle sirens, etc.. This noise will affect *everything!*

Social Impacts

According to pages 71-72 of the EIS, "a common problem [on Molokai is] the increasing antagonism associated with controversial matters...[and that] Molokai is becoming known for its controversy and confrontation and that this is not reflective of the 'Friendly Isle...' [and also that] rudeness and name-calling...is becoming more common at public meetings." The Ranch takes no responsibility for this controversy that *they* have created through *their* proposed development! If people are getting rude and antagonism is increasing it is because people are frustrated, tired of fighting the Ranch, tired of having to testify all the time (saying the same thing over and over) and then being ignored!

Page 73 states that "a significant impact on the social environment is the embodiment of negative expectations related to La'au Point residents and the public controversy. The heated nature of this controversy has a detrimental effect on the social environment. It caused social disharmony and stress." Again, the Ranch takes no responsibility for *their* primary role in creating this stress; rather they blame the people who are opposing the development and taking a stand for the La'au Point. It is ridiculous to act as if the opposition activists are doing anything unusual for Molokai by opposing this development. Indeed, the Social Impact Assessment states on page 61: "Activism is not new to Molokai. Proposed development projects are typically met with scrutiny and skepticism. Molokai residents are experienced in taking a stand and opposing efforts they disapprove. Recently, the proposal to allow cruise ships to land in Molokai was defeated, and the University of Hawaii withdrew its patent applications for genetically-modified taro when Molokai activists protested." So, you see, the proposed La'au development is what is causing any stress and disharmony, not the activists' opposition to it. The Ranch is dismissing these activists as burdensome flies, rather than as sincere community members whose sincere views should be sincerely considered and even heeded!

OHA consultant/administrator, Clyde Nannu'o, supports this point: "[Although] the OHA trustees have registered their support for the *basis* of this plan and project, OHA urges to applicant to listen to the elements of the Molokai community who oppose any development at La'au Point -- as we, too, must listen, and we urge the applicant to meet the community's concern's with honest discourse." In other words, don't blame them for the situation, listen to them sincerely and respond honestly. Why is that so hard for MPL to do?

The EIS claims that it is "easier [for people] to address the [La'au] project than to address the Plan." Yes, that is because stopping the La'au development is *more important* than implementing the Plan. That is why the focus is on La'au rather than the overall Plan. The Plan may be constructive and positive in some ways, but the La'au portion of it is negative and destructive. And the negative impacts of the Project will be greater than the positive impacts of the Plan. It is

much more important to prevent the destruction and guaranteed negative impacts that to hope for possible positive impacts that *may* occur...*if*... Indeed, page 61 of the Social Impact Assessment and page 170 of the EIS state that, "[people] focus on La'au because to them it signifies a threat to the people, the environment, the Hawaiian culture, and Molokai Style." Exactly!

The EIS, on page 170, says that: "While Plan opponents put up signs and organize protests, Plan proponents are attempting to find solutions to age-old issues by exploring mechanisms for coming up with a resource management program and establishing a Land Trust and a CDC." This tries to put the opposition in a bad light -- as if what they are doing is childish or bad. However, page 61 of the SIA reminds us that, "Activism is not new to Molokai," and the point is simply that, "while both sides are seeking to protect Molokai, their strategies have no commonality. There is little that can be done to bridge the gap." In reality, the only "age-old" problem there is, is developers trying to develop Molokai lands!

Page 52-54 of the SIA cites some problems that some community members felt about the Plan: "Questionable Process:

- People were critical of the process undertaken to form the Plan. [and] said that the resulting Plan was very different from early discussions. They felt that much of the process was lip service and patronizing, and that "they were going to do what they were going to do anyway."

- Those involved in the ALDC process felt that their efforts and recommendations went unheeded. They cited the short time frame in which they were to produce their report, and felt that decisions were made without consideration of their input. One person's perspective was that the process employed manipulation, fear-based thinking and a hastened time frame.

Undesirable Carrot:

- People...expressed resentment over the Plan's relationship to the Project. They felt that the Plan is "being dangled like a carrot" so that the community will accept the La'au Point Project. They objected to the "either-or" choice as if choosing La'au would somehow solve the community's problems. One person likened the situation to the unsuccessful use of mongooses, which are diurnal, to eradicate rats, which are nocturnal. Unnecessary and gratuitous effort.

- The Plan was criticized for being unnecessary. It was noted that Molokai had successfully opposed other projects, and would continue to fight future undesirable projects.

- It was also felt that [the initial] land to be gifted [to the Land Trust] was "just a bunch of cliffs." [And for the rest of the Land Trust lands] people noted, "The land is ours anyway. We may have to play cat and mouse games, but we go there anyway."

Page 102 of the Cultural Impact Assessment states that "Development on one part of the island will affect the whole island." Won't this also be true of La'au, if not even more true, given the projected major negative impacts of the project?

Page 73 of the EIS says that "affluent people are already on Molokai and interacting with the community...Molokai Style is still 'persistent' and 'resilient' in spite of the new residents." Perhaps, but the long-time community locks around in town and at meetings and says, "Who the hell *care* these people?" - and this in a place where "everyone knowing everyone" is valued (as stated in the EIS, p. 73).

Page 74, sect. 4.8.3 of the EIS states that "interactions between the new La'au Point residents and existing residents can be positive if both parties are respectful and appreciate each other's right to enjoy La'au Point." [Emphasis mine.] Again, this is wishful thinking: "can be...if..." This is not mitigation.

It goes on to say that: "Expectation management will be incorporated in the resource management program orientation so that shoreline users are comfortable with the new development." *Expectation Management?* What the heck is that? You mean to tell me that you are going to teach people to let go of their expectations and let go of their prejudices through some kind of class? How long will such a class be? Who will teach it? How can you guarantee it will work? If you can't guarantee it, how can it be used as a mitigation measure? What precedents can you cite - either locally or nationally - of "expectation management" actually working?

Furthermore, it appears that this "expectation management" is focused more on the general public than the new homeowners and residents, e.g. to teach them to be "comfortable with the new development." Do you really think the community, which is opposed to the La'au development, will ever be "comfortable" with the development? If you can't make them comfortable with the idea of it now, what makes you think you can make people comfortable with it after it is built? And if you need to resort to this kind of propaganda to teach people to accept something, might it not be the right thing to do?

The Cultural Impact Assessment (CIA) states on page 15: "Gathers of limu and pupu will very likely be met with kayakers in the water, people sunbathing on the beach, and pet animals running up and down the shoreline. If experiences elsewhere in Hawai'i hold true, it is not likely that owners of multi-million dollar beach houses will greet shoreline subsistence gatherers with open arms. It is more probable that subsistence practitioners will be confronted by insensitive newcomers intolerable of extractive activities in what they will perceive to be their front yards." This contradicts the EIS and the Social Impact Assessment that basically expect and hope that everyone will just get along "if" they can all learn to get along. The proposed mitigation is "expectation management" classes and other classes to "teach" people how to respect one another and get along. Again, please give details about how and why this will work, and where something like this has actually worked in the past.

Page 12 of the EIS states that it is "expected that the community character of the region may change, as this is an inevitable consequence of growth." Yes, but growth is not inevitable, it is a choice, and that is the crux of the matter. None of these issues/problems/impacts are inevitable, they only become so due to the choice to develop La'au.

If the Ranch doesn't keep its signed covenants, the community can sue; if the homeowners don't uphold their CC&Rs, the community can sue. If new Ranch owners come in and don't honor agreements, the only recourse is litigation. Sounds like you are setting up Molokai for years of litigation and lawsuits. Isn't the financial cost, time and energy that will be required to do this a major negative social impact to Molokai that may (or probably will) occur, and thus should be addressed in the EIS? If you don't think that it will occur, why are you so confident it won't?

Millionaire houses at La'au point will raise property taxes across the island. This was a common community concern expressed at meetings. Please give evidence why this will *not* happen, if you think it won't. However, this has happened all across the State, why wouldn't it happen on Molokai as well?

The SIA and EIS say that the percentage of the total Molokai population for the La'au homeowners will only be from 2% - 6% (changing seasonally), and therefore this won't have a major impact on demographics, social character, or "Molokai Style." However, it is not the total percentage of the population that matters. What matters is how active that particular population is in the affairs of the community and local politics. Lets take an example: Lets say there are 5000 eligible voters for the EC elections. In the recent election, 1284 participated. If this number represents the politically active portion of the community, and we assume that the newcomers will all be active participants, then 200-400 of 1284 could amount to as much as 15% - 30% of the political voice! This type of percentage, combined with the perhaps 20% - 30% of the community that is currently pro-development, would have a very strong voice, perhaps even a majority. To say that this would not shift demographics or change the lifestyle of Molokai is ludicrous! It is a very real possibility. The EIS rationalizes why it won't happen; I rationalize that it can and will, and that it is simply not worth the risk!

Homeowners are to have classes "with a kupuna" to teach them to respect Molokai and subsistence rights, and to "malama 'aina." Will this kupuna be a Ranch kupuna? Shouldn't it be a cross-section of kupuna/people from Molokai, not just a Mauanloa ones?

How long will these classes be? Honestly do you really believe you can teach people to respect Molokai, respect the community, respect and honor subsistence rights, let go of their prejudices, and malama 'aina that easily? Be it 3 hours, 3 days, or 3 years? That's ludicrous! We can't even teach many of our own people to do so. (Locals litter!) C'mon...

Imagine a subsistence fisherman, who walked in 3 miles from one of the access points near Hale o Lono to gather food for his family, encountering a homeowner, (who may have gone through CC&R "education"), along with his 10 guests, (who didn't), having a picnic on the beach - sun-tanning, kayaking, playing frisbee or smash-ball, and with a stereo blaring top-40 music, coolers of beer and soda, and a propane BBQ grilling store-bought steaks, fresh from the freezer. All of these people simply walked right down to the beach from the homeowner's property in a matter of minutes. Imagine how the fisherman (who has fished there all his life) will feel just seeing this scene. Now imagine if the picnickers (perhaps one of the boisterous guests) challenge the right of the fisherman to be there. "Hey! Hey Buddy! You can't fish here... This is our beach!" Can you imagine? This is a recipe for disaster and even violence.

Page 164, section 7.4 of the EIS, states that: "While there may be differences in values and lifestyle of new residents, community cohesion is anticipated to grow over time if residents can come to appreciate the contributions of more recent residents, and [if] the latter have learned to work within the framework of the local community." [Emphasis mine.] May be differences? Try will! And these are some mighty big "ifs." An "if" is not a mitigation plan. It is just wishful/hopeful thinking.

Page 164 goes on: "La'au Point residents will account for only 2% of the population forecasted for 2025. The likelihood of these residents having significant influence in changing Molokai's social and political structure is low." First, in responses to consultant Steve Morgan, and elsewhere in the EIS, the Ranch states that during "peak season, the on-site population will be 6%, with an average of 3%." But we have to remember that this is 2%-6% of the total population; thus it is a greater percentage of the adult (testifying/voting) population, and an even larger percentage of the adult population who actively participates in politics and community affairs/decisions, and an even larger percentage of those who can afford to fly to different islands every week to lobby politicians, and an even larger percentage of those who are wealthy enough to be able to "buy" influence at the County, State, and Federal levels by giving money to various

groups or political campaigns. Ten to fifteen percent would probably be more accurate, and *this* percentage could indeed have a significant influence on the Molokai social and political structure.

What is to prevent to new residents from wanting a marina at Hale o Lono, along with a shopping center or small mall? Or some big box stores like Costco or Home Depot? Or some fast food chains? Etc. Their material desires can change the nature of Molokai. Their wealth can buy influence to get them these things.

Page 14 of the Cultural Impact Assessment says that community members at meetings expressed concerns that the proposed developments will:

- Change the demographics of Molokai forever
- And that having 200 millionaires will:
- Change the makeup of the Molokai community
- Lead to changes in the Hawaiian way of life
- Cause Molokai to no longer be "The Last Hawaiian Island"
- Bring in residents unfamiliar with the culture and way of life on Molokai
- Lead to cultural change

And that the community:

- Doesn't want Molokai to turn into Maui or O'ahu with a large population of off-island people
- Expressed regret that if the development occurs, La'au will never be the same

These concerns have *not* been adequately addressed and/or mitigated in the EIS. Indeed some have simply been passed off as an "inevitable consequence" of development or a "probable adverse effect that cannot be avoided." Yet *all* of the above can be avoided if the development is not allowed to proceed.

Page 14 of the CIA goes on to say that: "In balance, the Maunaloa kupuna shared that no matter what happens, the population will increase and the land will be limited. While Molokai has been preserved it is gradually being developed. They acknowledged that progress cannot be stopped but that it can be controlled. The Maunaloa kupuna felt that the overall community plan of which La'au is a part provides for the community to manage and monitor the proposed development." First, who are these "Maunaloa kupuna," who are constantly referred to in the CIA and the EIS? What gives them the right to say what should happen to La'au? La'au belongs to *all* of Molokai, *not* to Maunaloa (a Ranch town); thus all the kupuna of Molokai – from Halawa to Mana'e to Kualapu'u to Ho'olehua, should have as much a say in what happens to La'au and what is considered to be in "balance." The island is interconnected; what happens at one end affects the other (just consider fish or water, for example), which is why it is not solely for Maunaloa to decide. They can give their opinion/mana'o, but it is not their sole decision.

Second, population increase is *not* inevitable. We as human beings can (and should) decide how we are going to control our population, and deal with our growing and very real problem of overpopulation. We can choose to hide our heads in the sand or just say that it is "inevitable"; or we can *choose* to do something about it. It is a *choice*. At any rate, to say or think that we cannot control our population, but that we *can* "control development," is illogical and foolish. It is wishful and unproven thinking. Moreover, if "no matter what happens, the population will increase and the land will be limited," that means that eventually you will need to build high-rises on Molokai, because with limited land and uncontrollable population, where are you going to put all the people?

Third, what do you mean, "they acknowledged that progress cannot be stopped but that it can be controlled." This is such a fatalistic attitude. "Progress," in this case, means "growth," as in development (i.e. more houses, cars, buildings, roads, jobs, people, etc.) But who are they acknowledging? Of course it can be stopped, for this type of progress is a *choice*. It is not like an approaching rain squall – that is something that cannot be stopped or controlled. That will come no matter what. But development? It is a *choice*; we choose! It is ridiculous to say that we can "control" progress but not stop it. Indeed, the idea of "control" presented throughout the EIS is for the community to "manage and monitor the proposed development." But "management" is not the same as "control," for development, once it is allowed to begin, ultimately controls itself. You can monitor, but your control only really comes through enforcement and litigation, rather than from not starting in the first place. All you can really do is look back later to see what went wrong!

Note: "Progress" *should* mean becoming more enlightened and wise, but alas...

Why in the world is the CIA citing unemployment statistics/rates, food-stamps/medical assistance, and poverty lines from 1993, 1990, and 1990 respectively? Surely there is much more recent data and statistics for a 2007 EIS study! Indeed, the latest unemployment rates for Hawaii and Molokai appeared in the Molokai Dispatch just last week.

Ridiculous. Of the Cultural Impact Assessment's 18 (only 18!) "informants":

- 8 have direct ties to, or work for, the Ranch
- 4 were born/raised or live in Maunaloa
- 4 are Espanola family members
- 2 were evicted from Maunaloa by the Ranch
- and just 1 is a subsistence fisherman (1)

This is hardly a cross-section of the larger Molokai community. The Land Use Commission should redo interviews with a larger and broader cross section of members of the community (some who support the Plan, and some who against the development). Then the LUC and other agencies can draw their own conclusions, rather than just relying on the ones reached by the CIA from these 18 people.

What is to prevent every single one of the houses at La'au from being a vacation rental? With different people in them from day to day, and week to week? How would these renters be "educated" to respect the area and subsistence rights, and to malama 'aina? What is to prevent every single one of the houses at La'au from being a month-to-month or lease rental? How would these renters be "educated" to respect the area and subsistence rights, and to malama 'aina? No renters' names will be on the title, so how will they be educated? Who will verify that they are? What about regular caretakers or house-sitters for when the owners aren't there? How will they be educated? Is the Land Trust Steward or "security" going to go around and check who is residing at each house every day, and make sure they have had their education?

Indeed the focus is more on the public than the guests and renters of the landowners.

What will happen to guests of landowners who are on the beach, but have not yet had education classes? What will happen to the landowner if he or his guests are there without their education? What will happen to the general public if they are there without it? Will there be consequences or fines? What will these be? Is everyone going to have a permit, and/or be subject to searches and interrogation? They need to be part of the EIS so that the public can evaluate them.

Rentals will affect demographics and population. If vacation rentals, you will have a continuous amount of 200-400 people. Moreover, all the people (though changing weekly) will *always* be in party/vacation mode (meaning making party noises). They won't be residents, so they won't affect politics. Long-term renters, however, will be residents, and if all 200 houses are always full then there will always be 200-400 people there.

Where and how do the occupancy forecasts and population estimates in the EIS take into account the possibility of renters (both vacation rentals and long-term)?

If the number of vacation rentals or long-term rentals are limited, who will get first dibs? First come, first serve?

What county laws regulate vacation rentals, rentals, and renters on Molokai? Will the CC&Rs regulate them?

How will the CC&Rs, access, and education apply to renters?

Representation of Community/EC

Section vii of the EIS refers to the "partnership of the Enterprise Community and MPL to create a visionary plan for Molokai Ranch's 60,000+ acres." Well, the Ranch and the EC might have had authority to create the Plan, but what gives them the authority to *approve* it - especially the La'au Point Development? That should be up to the community through a referendum (which the EC has denied the community a chance to have.) Even Mr. Peter Nicholas, MPL CEO, has publicly stated that it would be "the community" that would decide about La'au, not the EC. (This statement was recorded on video.)

Page 18 of the EIS states that "The Plan is an agreement between the Molokai Enterprise Community (EC) and MPL. The process of developing the plan was an EC sponsored process," (between 9/2003 and 9/2005) in which anyone in the community who wanted to participate could do so, and that ended up including over 1000 community participants. There were 5 committees: Environment, Cultural, Economics, Tourism, Recreation and a "Land Use Committee" (formed from representatives from the other 5 committees). This Land Use committee eventually voted to adopt the Plan as did the EC Board. This was indeed a monumental and commendable effort, and a unique and good process. However, there is one part of the process that has not yet been carried out: *the public has never had a chance to vote on the Plan directly in a community referendum;* this despite overwhelming community opposition and testimony against to the La'au development. (Note: The testimony is generally *not* against the Plan per se; it is only against the Plan as long as it includes La'au). This failure to allow the public a chance to directly vote on the issue is completely unfair and not pono, especially in an issue and development of this magnitude, and especially when the EC claims to "represent the community." Why then had the EC denied the public community an official referendum? Not all community members will participate in meetings and committees; and for many, the main opportunity they have to participate in the process is through voting. The LUC had approved it; the EC has approved it. Fine. Now give the larger community a chance to make *their* voices heard. MPL, the EC, and or the State Land Use Commission should sponsor an official community referendum regarding the La'au development - yes or no - and settle once and for all what it is the community *really* wants! The Social Impact Assessment, page 62, states that "many will not attend public meetings because they dislike the antagonism and conflict." All the more reason to allow the public a chance to vote on the issue. Allow them a chance to participate in a democratic way that they can feel comfortable doing.

The recent EC election on January 31 ousted 2 pro-La'au development board members (including Collette Machado) and replaced them with candidates who ran on a clear "No to La'au" platform. This election, which saw the largest voter turnout in EC history (1284 voters), was dubbed by one of the ousted board members (prior to the election) as a "referendum on La'au." The community has spoken, and they have said, "No to La'au!" Thus, the EC can no longer claim to "represent the community," which makes the partnership and agreement between MPL and the EC essentially null and void.

On 2/15/07, the EC was to have its first meeting since the recent election cited above. However, the 5 board members who support the La'au development *did not even show up!* Their no-show destroyed quorum and thus the meeting had to be cancelled. Forty (40) community members had shown up to give testimony to urge the EC board to rescind its support of the La'au development, and it was possible that this measure could have passed with the newly elected board members. Obviously, with this being the only EC meeting before EIS comments were due, the pro-La'au board members could not risk such a vote; so they did not show up. These kinds of tactics border on unethical, and the EC has done many questionable actions recently, such as destroying quorum at other meetings to prevent votes, or not restarting the EC water moratorium project (which could have stopped the La'au development), and not allowing the community a chance to vote on the La'au issue. Do these 5 board members plan to not show up for *all* the EC meetings this year, so that nothing can be done through the EC to prevent the La'au development? I urge the Land Use Commission to watch the EC closely during this coming year, and to thoroughly investigate the actions of the EC over the past two years and recent weeks/months to determine if there have been ethical violations, especially since the EC claims to "represent the community."

The whole point of EC project #47 (community-based compatible development) and of something like a Land Trust (EC project #1) is to avoid development(s) like La'au!

Page 22 of the CIA states that the Plan is "not a perfect plan." So why should it be approved?

It goes on to say that it "represents a historic good faith effort on the part of MPL." So? The Plan should be judged on its own merits, and on the fact that it includes the development of La'au, which they community does not want. It should not be judged on the intention with which it was created. Indeed, please prove to us that this "historic good faith" is not simply a "Trojan Horse" to allow the development of La'au? The Ranch couldn't develop La'au with a direct approach due to community opposition, so they came in the back door as a "friend" - offering carrots and bribes. Please prove that this is not so.

Why do so many people on Molokai (so many people of the Molokai Community) oppose the development of La'au? There is a ton of quotes from interviewed community members in the Social Impact Assessment and the Cultural Impact Assessment. Please refer to those for some reasons. Moreover, community testimony at public meetings over the past months and years has been videoed and can be viewed.

More form page 22 of the CIA: "This monumental effort [creating the Plan] deserves serious reflection, deliberation, and endorsement." Reflection and deliberation, yes. Automatic endorsement, no. It does not deserve endorsement based on the intention or the amount of effort, but only if it is a good and pono plan; and after my own reflection and deliberation, it is clear that it is *not!*

How is this "one last development"? Where are the absolute guarantees of that? What is to prevent the Ranch from developing the rest of their lands, or expanding La'au? What is to prevent the Ranch from building their 200 lots at La'au and then building 1000 units at Papohaku later?

I mean, what if a new company buys the Ranch and says: 'Hey, we didn't sign no agreement with the EC, and the EC is now defunct anyway. We are applying to expand La'au to 400 lots -- rezzone -- as well as subdivide and develop all remaining Ranch lands.' What is preventing this?

The Plan was created "under the auspices of Enterprise Community Plan #47...community-based compatible development." But can you not see, that one of the reasons why this EIS is nearly porous (without substance) is because no matter how much you try to fit community, La'au, and development together through explanations and rationalizations, it simply doesn't work. There are always gaps for the simple reason that a subsistence fishing zone and a housing development are simply *not* compatible. A Place of deep spiritual mana (power) and a luxury residential subdivision are simply *not* compatible. They are at *opposite* ends of the spectrum. It is real estate versus aloha 'aina (love of the land). It is viewing land as a commodity versus viewing land as 'ohana (family). It is a developer's perspective versus a subsistence gatherer's perspective. It is a western point of view versus an indigenous peoples' point of view. It is Molokai Ranch's desire (along with their partner's -- the Enterprise Community) but it is not the desire of the community. Trying to blend them and make them fit together is sheer folly and a waste of effort, for they are not compatible.

Page 58 of the EIS states that "many longtime adversaries of Molokai Ranch, who were involved in developing the Plan, were willing to allow the project to proceed under the guidelines and conditions agreed to over the course of a two-year planning process." Yes, but many more adversaries were *not*. Just because some former adversaries managed to get into positions of power on either the EC board or the Land Use Committee, and then vote to support the Plan, does not mean that the larger community supports it; indeed, the larger community does not. It is unethical and ridiculous that the same people who came up with the Plan (and a small group of these people at that) should be the same people to approve the Plan. That should be for the larger community to do in a referendum vote. *The community has never had the chance to vote on the Plan. The community has never had the chance to say Yes or No to La'au in an official referendum.* The community should decide, just as Mr. Peter Nicholas promised the community they would! Not a few representatives of the community, not the EC, *the community!*

OHA consultant/administrator, Clyde Namt'o, states in his comments: "[Although] the OHA trustees have registered their support for the basis of this plan and project, OHA still urges the applicant to thoroughly study and research [the project area and impacts...and] also urges to applicant to listen to the elements of the Molokai community who oppose any development at La'au Point -- as we, too, must listen, and we urge the applicant to meet the community's concern's with 'honest discourse.'" Some honest discourse would be nice, instead of self-serving statements and propaganda in the EIS.

This development is *not* in line with the EC/MPL Plan's vision statement. They don't mesh; they are incompatible! One example from the statement is: A Molokai that "leaves for its children a visible legacy." Yes, a scar upon the sacred land of La'au. Another is: "We...choose not to be strangers in our own land." By inviting 200 off-island millionaires to come live on Molokai - on that sacred land. This is not pono.

Section 2.2 of the EIS states that "La'au has been the most controversial aspect of the adopted plan, with residents form all aspects of community life concerned about the threats posed from

newcomers, the potentials for desecration of cultural sites and the pristine nature of the area, and the potential threat to subsistence gathering... Therefore, for many members of the Plan's Land Use Committee, the decision to support the La'au development was an extremely difficult one." (Note: the Plan was adopted only by the Land Use Committee and the EC, not by the community at large, who is against it) Why is Molokai Ranch putting the community in such a painful position of either having to support a development almost no one wants, or having to fight against both the Ranch and these other community members to Save La'au? Why is Molokai Ranch doing this? If the Ranch truly cared, it would not! There *are* alternatives!

Moreover, as pointed out in these comments, the EIS does little to address the concerns above except gloss over them, ignore them, or try to "offset" them.

The EIS goes on to say that for some of these people, "the difficulty has been lessened" by the putting 55,000 acres into some form of open space conservations or agricultural resource protections; the CC&Rs, and the rezoning from Agricultural to Rural. (p. 23) Yes, but this is a small number of people. What about the *community*? The Land Use Committee and the EC board, who "adopted" the Plan is *not* the community. This committee and board is only about 30 people -- out of nearly 5000 voting-eligible Molokai residents, and out of the 1000 or so who actively participated in the two-year process to create the Plan. At the least, the 1000 people who did participate in the process should *all* be given a chance to vote on the Plan. But even this is not good enough, because even *they* are not the community. The *entire community* needs a chance to say "yes or no" to the Plan, which includes saying "yes or no" to the La'au development as part of that plan.

Note: the recent EC election in which 1284 people voted and elected "Save La'au" candidates, while ousting pro-Plan, pro-La'au candidates by a wide margin, clearly shows that the *community* against the Plan as long as it includes La'au, and are against the development of La'au! When will the Ranch acknowledge this? If they cannot, when will the Ranch support a community referendum on the matter?

Consultant DeGray Vanderbilt asked in his comments: "What mandate did Ke Aupuni Lokahi/EC have to be the community's representative?" The Ranch replied: "MPL cannot answer on behalf of Ke Aupuni Lokahi." Cannot answer? MPL is a "partner" with the Ke Aupuni Lokahi/EC, so may I respectfully suggest that MPL go and ask KALEC this question so that MPL can include the answer in the EIS. Indeed, it is an important question since the EC does claim to be the "representative of the community," and MPL claims community support of the Plan through the ECI

The CIA states that "Everyone interviewed and those who came to meetings had reservations about the proposed development. No one was an enthusiastic advocate, many were reluctant supporters, and those most vocal were opposed to the development." *Not enthusiastic; reluctant; opposed.* This is hardly "broad-based community support." Why then is the Ranch doing this to Molokai? Why is the Ranch trying to ram-rod this down the community's throat? When you try to ram-rod something, all you do is cause the people to choke!

I'd like to remind the Ranch, the EC, the Land Use Commission (and other agencies involved in the permit/entitlement process), that the amount of time the community and the Ranch spent during the past two years to develop the Plan, and/or the amount of money the developer (the applicant) has spent in planning and preparing the EIS, is *not* an acceptable or lawful reason to approve the development (i.e. any zoning changes, permit requests, water-use plans, etc.) The EIS

must be judged on its own merits, with serious weight given to the public comments and testimony given. Time and money spent are not reasons for approval.

Page 23 of the CIA states that the Plan (with its promises of Land Trust donations) is "clearly in the tradition of 'Aloha Mai, Aloha Aka.' - When aloha is given, aloha should be returned," and that "such an outstanding and magnanimous gesture deserves recognition as a model for offshore owners of Hawaiian lands on Molokai." First, the proper phrase is 'Aloha Aka, Aloha Mai.' - When love is given, love is returned. There is no "should" about it. If the love given is genuine, then it is simply and naturally returned. Could it be that one reason there is so much opposition to the La'au development is because the Ranch doesn't really understand this concept? Indeed, they have it back-asswards, or standing on its head. (Mai always follows Aka; the other way only creates confusion.) The Ranch is saying, 'We are giving to you, and thus, because you are getting from us, you should give to us in return.' Sorry, it doesn't work that way. You don't give and then demand something in return. You don't give in order to get something else. You just give. If it is genuine it will come back to you. If not, it won't. Using the Land Trust and the hotel as a "carrot" or "ransom" or "trade" or "Trojan Horse," in order to get La'au is not at all in the tradition of Aloha Aka, Aloha Mai. So instead, how about just giving the community La'au? Withdraw the proposal for the development and put all of La'au into a community-based or public land trust. This would be true Aloha Aka, and I think you might be surprised at what would be returned to you (Aloha Mai) with such a truly "magnanimous gesture" (including money and support to renovate the hotel and sustain the Ranch.) The ancient kupuna were wise - why don't you trust them and give it a try?

Site Protection

The EIS plans on "preserving known archaeological sites." All of La'au is a cultural site!

Shoreline Setbacks

As much as 1000' of setback in some places seems like a lot, especially when compared to setbacks in other areas of the islands, but it still isn't very much at all. Moreover, this will only be for some of the houses; most of the setbacks will be much less than 1000'. When it comes to protecting the solitude of the area, 250' - 500' is very close.

Spiritual Quality of La'au Area

Natural condition - you cannot affect one part without affecting all the others. If you make one part artificial, the whole is altered, because the whole is no longer natural.

"Open Space" should mean that when you look your eyes see nothing man-made, nothing artificial - only nature. Perhaps it should be called "Natural Open Space," or "Wild Open Space," or even just "Wilderness." The natural environment in its natural state!

When you look seaward from above you only see 'aina and kai (land and sea), and when you look mauka from the shoreline, you only see 'aina and sky (earth and land). There are not many places like this left in Hawaii!

"Subsistence" is more than about food. There is also spiritual subsistence or sustenance from open spaces and wild places - isolated, pristine, and natural places that will be destroyed by the developer.

Page 165, sect 7.4 states that "The experience of fishing in an isolated, pristine, and spiritual area (La'au Point) will be affected by the La'au Point project. To mitigate impacts, the Plan seeks to establish a subsistence fishing zone, which will require special legislation to be enacted by the State Legislature... [and a] shoreline management plan will be developed and adopted to control access (through legal and enforceable means)." It is not only about fishing though, it is about the experience of *being* in such an area. Indeed, it is precisely *because* it is so isolated, pristine, wild, open, and natural, that makes it so very spiritual! Making a subsistence fishing zone really does *nothing* to keep it "isolated, pristine, and spiritual," especially with a luxury housing development, and especially when the plan only controls access of the *public*, and does nothing to address the concerns of homeowners' insensitivity and intolerance of subsistence activity in their backyards.

Page 17 of the Cultural Impact Assessment states that "The overall spiritual quality of the La'au area as a wahi pana and wahi kapu cannot be quantified and deserves recognition and respect." More than that, it deserves protection, by being left alone.

The EIS says the spiritual quality of La'au "cannot be quantified," yet by referring to this quality as, "spiritual resources," or to qualitative views of nature as "scenic-view resources," the Ranch does indeed attempt to quantify them. They try to make them into "things," so that they can then be traded, or exchanged, or "offset," by other things that are indeed things. (like jobs, or acres of land, or money). This is unacceptable. It is also unacceptable to say that because they are things of quality nothing can be done to mitigate their loss.

It also states that "The overall general concern is that the development of the area will destroy the special quality of La'au as a special place of spiritual mana and power."

The EIS states that: La'au is "raw and untouched." For God's sakes, leave a few places in Hawaii! and our world that are raw and untouched, wild and natural. Leave some places alone, for there are not many left.

Page 78 (sect 3.6.1) of the Cultural Impact Assessment states that, "La'au Point and the western and southern coastlines of Molokai which converge there have *always been remote and isolated.*" [Emphasis mine]. This is a major key point. If the place has *always been remote and isolated*, that is its main, unique and natural quality. If you put in roads and houses you utterly *destroy* its nature - its remoteness and its isolation - *forever!* How can you do such a thing? For there is nothing that can mitigate *this* except for *not* building!

That is why many people feel, as expressed on page Page 79 of the same CIA, that La'au is a "point of no return" due to the risk and very real possibility of the developments causing "irreversible cultural change." It is *not* worth the risk!

Page 103 of the CIA shared community opinion that "[The development] will greatly diminish, if not eliminate altogether the solitude currently offered by this isolated corner of the island." Solitude and isolation have *value* - they are an asset to public life and health (for maintaining well-being) and since they are rarer and rarer, they should be protected above all else, for they cannot be replaced or restored once altered. There are plenty of *other* places (almost every place else) that are *not* isolated and remote, and that are developed. Why don't we leave this one alone?

Page 107 of the CIA - community mana'o: "Once its developed, kiss it goodbye."

Page 109 of the CIA - community mana'o: "Future generations should be able to be in an environment where its just them and mother nature. They should know what it feels like." How can you destroy this possibility? Don't you want future generations to have this opportunity?

This is wilderness. Natural Open Space! This alone should stop the development since there are very few places like this left in Hawai'i and the world. Thus, being so rare, they are extremely precious!

Consultant David Kimo Franke, in his comments, talked about "the high value that many people place on being able to go somewhere with wilderness qualities (i.e. few -- if any -- people, no man-made structures, etc.). People who walk along the shoreline, travel by boat by it, or exercise traditional Native Hawaiian practices will all experience a loss in this sense of wilderness." Loss of wilderness, the sense of wilderness, the experience of wilderness. This is a huge impact! The only way to mitigate this is to not develop. But all the Ranch does is talk about buffers and conservation zones and access and management plans and uniqueness of coast and rules and protocol, etc. What about the wilderness? It will be gone! (That place with few -- if any -- people, no man-made structures, etc.) The best way to protect wilderness is to *simply leave it alone!*

Page 124, Section 5.6 of the Cultural Impact Assessment admits: "Perhaps there is no way to mitigate the impact upon the solitude that can now be enjoyed at La'au. It offers the opportunity to experience ho'ailona spiritual signs and the overall mana of La'au as a wahi kapu." [Emphasis mine.] Please re-read that. There is "no way to mitigate the impact." Therefore, this EIS/development cannot be approved.

And what is the Developers proposed mitigation to this destruction of solitude? "Limiting access to a walking trail behind kiawe with demarcation lines between private lots and public access areas." Uh... there will be a fence or line! You will be able to see houses! You will be able to hear people, stereos, TVs, cars, cell phones, voices! There will be picnickers on the beach with kayaks, BBQs, stereos, phones; sun-tanning, and playing Frisbee and smashball! This is *not* "solitude!" At best, you are trying to create an illusion of solitude by hiding the trail, but the reality is that you cannot hide the houses, the noise, or the people! The solitude will be utterly destroyed.

The EIS states on page 65 that "Earthmoving equipment is expected to be the loudest equipment used during construction." What about the effect of the noise on the solitude and spiritual quality of La'au -- a place where, currently, you only hear wind, birds, and ocean? Such noise will greatly affect the nature of the place!

How will everyday noise from people, stereos, TVs, cars, cell phones, power tools, voices, etc. affect the experience of solitude and the spiritual quality of the area?

Noise pollution is real, and it is the cumulative effect of all the various kinds of man-made noise that will affect the quality and experience of La'au. Noise and sounds can travel great distances, especially over open areas. The EIS says that nearest residence is more than a mile from the project site. Yes, but the beach and shoreline is much less than a mile from the site. Indeed, for shoreline lots, the greatest distance apart they will be is 1000' (most of the time much less - 250'-500'). There will be ongoing construction noise for 15 years, less than 1000' from the shoreline that will propagate in all directions, affecting fauna and destroying the wilderness nature and spiritual quality and solitude of the area. Please explain how that could not be so.

Consultant Steve Morgan made a point in his comments that I would like to reiterate regarding the Ranch's statement that "MPL is committed to preserving archaeological and cultural sites which are sacred." Mr. Morgan said: "The entire [La'au] area is considered sacred in Hawaiian culture. If MPL were abiding by these concepts then this project would not be proceeding."

Page 164 of the EIS says that "The La'au Point project will have an impact on the solitude and spiritual resources now existing." Its proposal to mitigate this is by "reinforcing the importance of the homeowners and Molokai community working together to educate each other about the area's uniqueness (i.e. 'C'mon everybody, let's all get along!'), and "calls upon the leadership of the Molokai Land Trust to bring various sectors of the community together in a community relationship to ensure that the spiritual, physical, and natural resources are properly cared for." Again, this is the applicant passing the buck to the Land Trust to make sure that everyone "works together" in harmony, gets along, and protects the area. This is wishful thinking, not mitigation. Moreover, if the EC cannot "bring the community together" right *now* about this issue, how will the Land Trust or anyone else be able to do so later? Isn't that a bit far-fetched?

Page 164 also says that "the location of the house lots... should serve to create a sense of respect for the area." Uh...how?

Page 54 of the SIA states that "The Project requires *significant change* in an area that is virtually untouched." [Emphasis mine.] What right do we have to touch such an area? And even if we do have a right, why should we?

In reading the EIS, I was shocked by the reference to the La'au area as "vacant" land. I know that this is just a real estate term showing that the land is "unoccupied"; however, the fact that it is referred to do this way sheds light on why the Ranch, and developers in general, cannot seem to grasp the idea and truth of 'aloha 'aina' (love of the land); and thus, cannot understand where the La'au opposition is coming from. Indeed, it illuminates that fundamental difference between viewing land as "real estate" -- as a commodity to be bought and sold (as a source of money) -- and viewing land as a member of the 'ohana (family) -- one to be cared for (as a source of *life*). This is the real estate or developer's perspective versus the aloha 'aina or indigenous perspective. The term "vacant" means "empty or void," and to a developer this emptiness is simply a bunch of *wasted space*. But through the eyes of aloha 'aina, this same emptiness is very full -- for it is full of mana, and full of Spirit! You can feel it when you look and see nothing man-made, nothing artificial -- no cars, or roads, or houses -- but rather see only 'aina and kai; 'aina and sky (land and sea; earth and sky). You can feel it when you are there, for there in that "empty void" there is solitude, and peacefulness -- just you, and nature, and God. You just *know*... in your "na'au" (gut, heart, intuition). You cannot quantify these experiences and feelings and say that you have 10 units of "spiritual resources" and 8 units of "scenic view resources" and that the negative impacts to, or destruction of, these "resources" by development will be "offset" by 10 units of created jobs and 8 units of land in a land trust. This is absurd! It is a common western perspective to refer to everything as "resources" (including everything in nature) like the EIS does, and then shuffle these all about like chess pieces or some kind of card game. But you see, it is not about "resources," it is about *source* -- source of food and source of Spirit. Spirit is made of quality and experience, and it is a feeling inside. It is na'au. The other meaning of "vacant" is "unintelligent, and again, western developers see the land as inanimate and material, whereas indigenous people (and others who share an aloha 'aina perspective) see the land as living and alive, and as a true part of the 'ohana -- another family member to whom we feel love and gratitude, and care for as such. To the Hawaiian culture, and most indigenous cultures around the world, land is sacred, and *everything* is spiritual, including - and especially - "vacant" land like La'au Point.

Threats

MPL in the EIS makes many "threats" if the La 'au development is not approved:

- The prospect of Ranch lands being split up and sold. (vii)
- The possibility of BEL selling Molokai Ranch as not economically viable, which, they say, is "what dictated the urgency of consensus [about the Plan]." (vii) But a project of this magnitude, and one with such widespread opposition and profound impacts, should not be urgent; it should be carefully thought out, not rushed through due to economic concerns.
- The Ranch's statement that "the Plan would only be viable as an integrated whole." (p.4) This is an 'All or Nothing' approach: 'No La 'au = No Plan.' It is saying that the Ranch is unwilling to consider any real alternative, because that is not "the Plan."

These threats/dire predictions are presented as inevitable consequences of the La 'au development not being approved. Indeed, they claim that "the La 'au Point project is crucial to the economic viability of the Plan," again effectively closing our the sincere consideration of alternatives. (p.4)

Page 146 of the EIS makes more threats. It says that not doing La 'au (the "no-action" alternative") would not generate the funds "required to renovate and re-open the Kaluako'i hotel... Without the increase in support for golf and the existing Lodge and Beach Village hotel operations, MPL could be forced to reduce operations and perhaps close those facilities. In addition, MPL could also be forced to reduce or eliminate other subsidized operations such as maintenance, nursery, gas station, and other services...significantly affect[ing] existing employment at Molokai Ranch and in Maunaloa Town...[This] would not sustain the Ranch for the future...[and] would eventually lead MPL to close down its Ranch operations...[and] would have to put the lands up for sale. Employment would have to be reduced, tourist expenditures would be lost, and local businesses in Maunaloa Town and elsewhere would be affected...[and] the losses in local jobs and probable business failures would also increase the need for County and State social services." My Goodness! Wow! What a threat! They are saying that Molokai can in no way survive without the Ranch, and the only way that the Ranch can survive is to develop La 'au. They have created a scenario in which the only way to do what they want to do is to do what they want to do. No La 'au means no hotel. No hotel means no jobs and businesses. And this means closure of the Ranch, sales of lands, collapse of the economy, and everyone on welfare. Aihhhhhhh! But this is all meant to instill fear, and fear is not a reason to approve La 'au or any development. Molokai doesn't need a Big Brother - Molokai wants to be self-sufficient. Molokai would survive - and thrive - without the Ranch!

Page 146 of the EIS states that while the "No Action" Alternative would allow the environments of La 'au Point to remain untouched to the benefit of those opposing development, negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales...appear to have more far-reaching effects upon the economic and social fabric of the larger Molokai community." the Ranch makes such intense predictions of doom if they were to leave: No La 'au means the:

- impending closure of the Ranch, and the
- unknown risk, of
- probable land sales"

Basically the collapse of the local Molokai economy. So dire!

These predictions are threats, and they are meant to instill fear in the Molokai community so that they will support the La 'au development. If the Ranch truly cared about the community they would not say things like this: that either La 'au goes through...or else!

Page 158 states: "Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant *Community-Based Master Land Use Plan for Molokai Ranch*. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time." Another threat. The Ranch is saying this is the "only" way. There are no alternatives to La 'au besides closing down business and selling off the land.

Page 157, sect 6.7 of the EIS states that "Postponing or delaying the La 'au Point project for reasons, such as allowing the ALDC to find the necessary funds to purchase La 'au Point, puts MPL in the positions of being unable to continue its ongoing operations on Molokai." Another threat: 'now or never - now or else the Ranch will have to leave.'

Visual Impact/Scenic Views

Consultant David Kimmo Frankel, in his comments, suggested the EIS include a "visual impact analysis".

- a) With a structure at point x - where will it be seen from? (List all the places.)
- b) From point y - what will you be able to see of the development?
Where is this in the EIS, if it was done at all? If it was not done, why not?

Consultants Steve Morgan's question was never answered in the EIS, so I will re-ask it. There is not reason for single-story residential houses to be taller than 15' or have a footprint larger than 3000 square feet? So why is the La 'au development being allowed a building height of 25' and 5000 square feet, respectively? The 25' height will, in effect, create 2-story high houses, even though there may be only one floor inside. The whole point was to try to hide and blend the houses in; doesn't this go against that purpose and make them more visible?

The EIS states on page 7 that "The existing landscape and views around La 'au Point will change with the creation of the rural-residential community... [but] because...the project will only be on 8% of the entire parcel, potential impacts to scenic open space resources are not expected to be significant." I disagree. Seeing houses - even 1 house - is completely different in feeling than seeing land in its natural state and wild condition. You cannot quantify open space as a "resource" (e.g. "scenic open space resources"), for it is a matter of quality, not quantity. It is not the percentage of open space, it is the quality of that open space (i.e. no houses, nothing man-made or artificial). Natural open space in its natural condition.

That is to say, when you look seaward from above you only see 'aina and kai (land and sea), and when you look mauka from the shoreline, you only see 'aina and sky (earth and lan)! There are not many places like this left in Hawai'i. This will be destroyed.

Although houses and house-lots will only be on "8% of the parcel" (about 400 acres) page 24, "the [total] project area [is] 1432 acres." (p. 24 EIS) This means the project area is actually 23% of the La 'au parcel. This entire 1432 acres, and the view of it, will be altered...forever!

Moreover I disagree with the notion in the EIS that the space "between the clusters of lots" counts as "open space." It may have such a zoning designation, but this is not what I, and many others, would consider to be "open space." Indeed, as stated, it is merely 'space between houses'!

The CIA says that "the southwest shoreline form Kaupooa to Hale o Lono will be ringed by luxury residential homes." There is no trade-off that will offset this, or balance the destruction of the

spiritual quality of the area (wilderness/natural open space) or the destruction of the scenic and uplift view of nature in its natural state. Plans and measures will not do it!

Water

6 years ago the Department of Hawaiian Homelands (DHHL) requested 500,000 gpd

The Ranch opposed the request

CWRM has taken no action on request

But the Ranch now wants 1 million gpd

Does anyone else see a problem with this?

DHHL still hasn't got their water; they should get theirs first.

Simple as that.

If that amount cannot be approved for DHHL, then certainly twice that amount cannot be

approved for the Ranch either!

On page 80, sect. 4.9.2, the EIS states: "MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water." So, this indicates that the Ranch agrees with my statements above, that the water requested by the Ranch for the La'au development and other uses on the West End, cannot be approved until, and unless, DHHL gets their water first. Correct?

The EIS states the water issue is "unresolved." Therefore, the EIS *cannot* and *should not* be accepted or approved, or used to grant any permits or land-use changes, until it is resolved. Given the water situation on Molokai, and the January 2007 findings of the Molokai Water Group about the present state of affairs in regard to drinking water on Molokai, it may not be possible to resolve. Thus, this development cannot be given approval to proceed if the water issue is not figured out. The EIS/development cannot be approved on wishful thinking. It is too critical a situation/problem to approve on wishful thinking or simply gloss over – this is a basic need of *survival* – both for people and for agriculture. For the State to approve the development/EIS with this issue unresolved would be a breach of public trust and likely open the State to a flood of lawsuits. (No pun intended.)

The Ranch, on page 112 of the EIS, says one of their "exchanges" for the La'au development will be that the Waiola well and pipeline will be abandoned. Uh...didn't the Supreme Court already say "No!" to that well?

Page 130 of the Cultural Impact Assessment lists four major concerns regarding the Ranch's request for more water:

- Impact on Aquifer
- Impact on Hawaiian Homesteaders
- Keep Water within Ahupua'a
- Impact on the Ocean

These have not been satisfactorily addressed by the EIS.

Community mana'o from page 132 of the CIA: "Hear that the Homesteaders don't have enough water, but when want to build a project like this, all of a sudden then get water. All of a sudden get water? Who are we kidding? This is water that is being diverted to something that won't benefit the island."

The CIA states and asks on page 155: "There is also the critical issue of water. Is there enough to provide for all of the islands major uses and yet allow this development to draw out 1,000,000 gpd of brackish water from Kaka'ale. The Hawaiian homesteaders have a special claim and

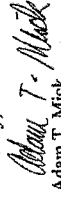
particular interest in this issue." So, again, you have to resolve the homestead claims first, and DHHL has no right to give away any of their water which is reserved for homesteaders.

Furthermore, the CIA states on page 126 that: "On the island of Molokai, the struggle over water is longstanding and rooted in a cultural way of life that is dependent upon subsistence. This subsistence lifestyle is threatened when coastal resources that thrive in brackish water environments are negatively impacted due to a diminishing aquifer...[The knowledge] and understanding of the interdependence of the marine environment upon infusions of fresh water which sustains a subsistence lifestyle for the people of Moloka'i, elevates the struggle over the use and distribution of fresh water from a struggle to perpetuate the culture and a way of life, to a struggle to protect life itself." Taking water to La'au would detrimentally affect subsistence on the entire island of Molokai by severely impacting the interconnected eco-system of the island's environment.

Page 134 of the CIA regarding the "Mitigation Water Plan" that "MPL will be required to measure chloride levels every month to protect against unacceptable salinity levels." Okay, and what if they are indeed found to be "unacceptable"? What are you going to do? La'au would already have been developed, and the people living there getting water. Are you going to cut off their water? If not, where will it come from? Honestly, are you going to cut off the millionaires' water or the Hawaiian Homesteaders? Or take water that is supposed to be for future homestead lots?

According to Couters 1858 map of the Molokai population on page 56 of the CIA, the entire West End of Molokai was uninhabited. Almost *all* the population was on the East End – Mana'e – and on the Northern "backside" – Hala'awa, Waihan, Pelekunu, Waikolu, and Kalaupapa! Why? Because there was no water on the West End. The water is on the East End and backside. La'au has no water, and it is not meant to! Leave the water where it is.

Sincerely,


Adam T. Mitek



Adam Mick
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 67

November 1, 2007

Adam T. Mick
1132 Hihkala Pl.
Kailua, HI 96734-1854

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Mick:

Thank you for your letter dated February 20, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge all your comments and respond to your questions below.

Access/Subsistence Access (pages 2-9)

1. *Can MPL (and/or the Director of Public Works) absolutely guarantee that there will indeed be only 2 accesses? How so? If not, why in the world should this development be approved since so much of the protection in the EIS hinges on having only 2?*

Response: The project proposes two shoreline access points based on the results of the community planning process (see Sections 2.1.6 and 4.3 of the Draft EIS). Based on the community-proposed access plan (see Appendix A of the Draft EIS, p. 105), protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Providing only two public access points was agreed upon in the Master Plan. The intent was to limit access to prevent culturally sensitive areas from harm and to maintain the biological resources of the area. Approval of these access points is pending approval.

Should MPL be required to provide additional public access to the shoreline, the area can still be managed successfully. The terms of the shoreline access management plan (SAMP) will be enforced at the access points and the limitations on vehicular access will still apply.

The SAMP is a community-based and developed set of guidelines, rules, monitoring programs, and general principals for the protection and utilization of the cultural, biological, and social resources of Lā'au Point. The SAMP is intended as an initial governing document based on current knowledge of the cultural, subsistence, and biological resources of the Lā'au Point area. From a social standpoint it is intended to foster a harmonious and respectful relationship between current users and subsistence practitioners of the area and Lā'au homeowners and new local users of the area. The SAMP will be incorporated by reference into the CC&Rs.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

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2. *Can they also guarantee that this will not be altered in the future (i.e. guarantee that no additional accesses will be added later.)? If so, please give precedents of this in other Hawai'i developments?*

Response: There are no additional accesses planned at this time. Changes to any project element will trigger the need for an additional environmental assessment, which will then undergo public and agency review.

3. *Please explain how this will hold up against State and County Law. Please cite legal precedents. There is an awful lot hanging on these "mays"; thus, this needs to be set up now and approved now. [§] If the answer to these questions above must come from the Director of Public Works, may I respectfully suggest that you go and ask him/her, so that the answer can be included in the EIS.*

Response: It is not possible to guarantee the outcome of the subdivision application. The EIS and all proposed plans are reviewed by State and County agencies prior to making any approvals and issuing permits. Permit and approval applications are public processes guided by each agency's code or rules.

4. *How are you going to "control" access? And is it legal to do so? You can control and regulate gathering of certain things, but can you legally restrict access to the shoreline in this way? How is this not against State Law? Please give legal precedents that are relevant and applicable to this situation.*

Response: The shoreline has always and will continue to be accessible to the public. The project will create two public access points, one at each end of the project, which will include shoreline parks, parking, and comfort stations. Homeowners may access the shoreline from the residential area; however, they will be required to adhere to the rules of the SAMP, which designate certain protected areas in the Conservation zone as off-limits to non-cultural practitioners.

5. *Page 63 says that near the lighthouse, "Access would be restricted to experienced subsistence fishermen only." Again, can you legally restrict access to the shoreline? Who will enforce this? [§] What is the criteria to be considered an "experienced subsistence fisherman"? Who will verify that one is or isn't? What will be the consequences of being there if you are not? [§] Will public access merely be "discouraged" or will it be "restricted."*

Response: The lighthouse property is owned by the US Government and is under the jurisdiction of the US Coast Guard. The shoreline and ocean area around this parcel can be treacherous and is not advisable for inexperienced users. MPL recognizes that it cannot exercise control over or prevent access along the shoreline below the high water mark. The area controlled by the Land Trust and the Homeowner's Association can be subject to conditions and rules of access. As the area near the lighthouse is hazardous, the conditions themselves will discourage inexperienced users. This could be supplemented by warning signs and educational materials. A Land Trust-employed resource manager/land steward will be charged with implementing the program. Where it is possible, the SAMP will govern penalties for disregarding rules on the cultural and biological resources.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as

shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

6. *The EIS states that "Resource managers hired by the Land Trust or security hired jointly with the homeowner's association will enforce the agreed-upon shoreline access management plan." Security! And what if the cannot agree on a plan? What then? Page 63, section 4.3 says a "shoreline access management plan will be developed and adopted to regulate (through legal and enforceable means) the use of land and ocean resources." Developed by whom? The Developer? When? This plan needs to be developed now and be part of the EIS so that the public has a chance to look at it, evaluate it, and comment on it.*

Response: A draft shoreline access management plan (SAMP) was developed by the community and the Land Trust with support from MPL. As the SAMP is dependent upon the finalization of elements of the project that may be modified as a result of the permitting process, and to allow for additional input from the community, the referenced SAMP, agreed to between the Moloka'i Land Trust and MPL, will be appended to the Final EIS. The SAMP is evidence that the parties have reached agreement. The SAMP will be included as an Appendix to the Final EIS.

7. *Where will the Land Steward be from? How will he/she be chosen? [§]How will the Land Trust Steward(s) regulate access on both of the two access points? Will there be a gate? [§]Page 63 of the EIS says that the Land Steward will make sure that "those who access the area have taken the appropriate education classes. How? [§]How will she know or verify that people have had their "mandatory educational classes"? What is everyone going to do, carry an ID card with a photo ID? Will one have to show ID and credentials to pass through any gate? Is this what is to be expected of subsistence fishermen? [§]What will be his legal enforcement powers to regulate access? And what will he be legally empowered to do if one passes through the area without credentials? Detain them? Fine them? Shoot them? What? The public deserves a chance to evaluate this part of the plan!*

Response: The land steward, also known as resource manager, and volunteers will be hired and/or chosen by the Land Trust. There will be gates to prevent vehicular access and the parking areas will be closed during certain hours. Generally, however, pedestrian traffic will not be prohibited from the shoreline area. On the conservation lands that are under the control of the Land Trust, the Resource Manager(s) will be responsible.

It is recognized that to a certain extent this is a voluntary program or requirement. It is hoped that those who wish to access the area will undertake the program to enhance their knowledge of and care for the various resources. Shoreline users are not expected to prove they underwent educational classes; however, if they violate the rules of the SAMP, the Resource Manager is empowered to enforce the SAMP and notice violations. Penalties may include ejection from the premise; reporting of trespass violations for prosecution; and prohibition on access for a period of time. The SAMP will be included as an Appendix to the Final EIS.

8. *Are you really going to give classes to Molokai natives about how to subsist? Are you really going to make residents who have subsistence fished there for years go to classes? Who will teach these classes...Professor McGregor? [§]The public will have to take classes to get to gain access to the beach. Will the owners have to also take classes to get access to the beach? What about their guests? What about their renters? What about their house-sitters?*

Response: The intent of the SAMP is to develop educational programs that will teach the importance of the resources, the need to honor the cultural resources and the importance of good practices in harvesting the biological resources. In sum, the program is intended to make the users of the area aware of the value of the resources they encounter/harvest and to honor others rights and needs in the area. It will teach cultural, social and environmental sensitivity.

SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We can only assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

9. *If so, who will check to verify that they have indeed done so? Will the Land Trust Steward or "security" be patrolling the fence line of the private lots, and checking credentials as the homeowners and their guests come down to the beach from their properties?*

Response: See response #7 above for Land Trust steward's duties.

10. *How will it be ensured that the owner(s) of the house - who signed the CC&Rs - actually lives there? Are you going to screen who is at every house every day? Will the CC&Rs say who can and can't come over?*

Response: Although no monitoring will take place to ensure the residents of the home are the owners on title, adherence to the CC&Rs is a binding agreement.

11. *Again, what about guests, house-sitters, renters, or other family members who are not on the title and have not signed the CC&Rs but do live there? Will they have to sign CC&Rs too and go to*

classes too? [] What kinds of restrictions will there be on them? [] How will this be monitored? Who will enforce any restrictions? How?

Response: See response to #10 above. The same restrictions will apply to every resident in the homes whether legal owners or visitors. The Resource Manager will enforce restrictions pursuant to the guidelines contained in the SAMP.

12. How will guests or other family members staying at a Lā'au house be "educated" before their beach access? Are you expecting the homeowner to do it? [] How will renters staying at a Lā'au house be "educated" before their beach access? Are you expecting the homeowner to do it? [] What consequences will there be for homeowners or guests who gain access without having first been educated? Will the homeowner be penalized or will the guest be treated like a criminal? What will the penalties/consequences be?

Response: See response to #8 above regarding the education program. The educational requirements will be part of the SAMP, adherence to which is a requirement of the CC&Rs and enforceable by the Homeowner's Association and Land Trust. Rental properties will be prohibited in the Lā'au Point covenants, as stated in Section 2.3.6 of the Draft EIS.

13. There were community concerns cited in the EIS (page 62, sect 4.3) that "subdivision lot owners and their friends [such as house-guests, house-sitters, renters, etc.] will have preferential access to the coast...[and] that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with?

Response: The project will only create two public access points at each end of the project. Homeowners may access the shoreline from the residential area; however, they will be required to adhere to the rules of the SAMP, which designate certain protected areas in the Conservation zone as off-limits to non-cultural practitioners.

The educational process and the lack of infrastructure or paths through the Conservation zone are designed to deal with this issue. The Education program will inform the Homeowners of the restrictions on access, its importance, and the requirements of the SAMP. The density of the foliage and the rough terrain will act as a practical and natural barrier.

14. Other concerns are that "affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with?

Response: See response to #13 above.

15. Another concern is that landowners [or their guests] "might call the police if they see the general public walking on the beach, as this has happened at Papohaku." This concern is not mitigated or addressed in the EIS. What will prevent it from happening? How will it be dealt with? [] These concerns listed above from page 62 of the EIS are simply ignored by the EIS on page 63 after listing them. Indeed, the very next paragraph states that "increased public access to the shoreline...has the potential to damage the natural environment and diminish the uniqueness of the coast," and goes on to talk about its "shoreline access management plan." What about the preferential access? What about homeowners using a vehicle to get to the beach? What about the access being "unequal"? What about homeowners calling the police? Please address each of these.

Response: Alleviating social tensions is another goal of the educational program which will inform owners of the rights of the public and subsistence gatherers to access the beach. As previously addressed in response #8 above, homeowners will undergo an educational program regarding the SAMP, including subsistence activities. Homeowners must adhere to the rules of the SAMP, which designate certain protected areas in the Conservation zone as off-limits to non-cultural practitioners.

The educational process and the lack of infrastructure or paths through the Conservation zone are designed to deal with this issue. The Education program will inform the homeowners of the restrictions on access, its importance, and the requirements of the SAMP. The density of the foliage and the rough terrain will act as a practical and natural barrier.

Vehicular access to the shoreline is restricted to the two public parks. Access beyond the two parks shall be by foot only. Vehicular access beyond the two parks is prohibited, except for emergency access. Off-road vehicles, ATVs, motorcycles and any other motorized vehicle are also specifically prohibited, except as needed by the Resource Managers. To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

Conflicts between shoreline users and adjacent homeowners typically occur when there is physical proximity between the two groups. This is not expected to occur at Lā'au Point. Given the natural environmental condition of the Conservation Zone and the distance of the nearest homes, there will be limited visibility and interaction between shoreline users and homeowners. Lā'au Point has a significantly larger lot and building setback than Papohaku. People walking on the beach will not affect residents in their homes and vice versa. From a practical perspective and in conventional terms, the beach and shoreline will not be the "front yard" for the homeowners. Residential lot lines will be 50 feet mauka of the Conservation District Boundary, which is at least 200 feet mauka of the shoreline. Structures will be prohibited within a 50-foot setback from the maikai property line. This means that the nearest structure will be at least 250 feet mauka of the shoreline.

Further, as discussed in Section 2.2.1 of the Draft EIS, those who choose to buy a lot and build a house at Lā'au Point will likely be attracted to the beauty and mystique of the area. New buyers must attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts. It is also very likely that the new permanent residents will choose to live on Moloka'i because of the island's uniqueness, which includes a strong appreciation for local food gathering and other shoreline practices.

16. The owners who live along the shore will be able to access the beach directly. What about the owners who live on the mauka side of the road and will not have shoreline lots? They will want access too. How will they have access? Will they have private rights-of-way? If so, this is even more unequal. What gives them greater right to access the shoreline than the general public? Since they don't have houses along the shore, they are part of the general public too; thus, they should have to access the shoreline from the 2 public access points at either end of the subdivision, just like the rest

of the general public. [¶] If these people have private accesses, it is unfair. But if they don't, what is to prevent them from suing to get more public accesses for them? After all, as noted, State and County law is supposed to provide such access, so they would have a strong case. [¶] What is to prevent them from making a private access through the homeowners association and the Land Trust? This needs to be addressed now.

Response: The homeowners living mauka of the access road will not have private rights-of-way to the shoreline. The state law requires access to the shoreline, which can be laterally from adjacent coastal areas, sometimes rocky areas, not via private rights-of-way directly from mauka locations. Lā'au Point buyers will be made aware of the policies set forth in the CC&Rs and SAMP prior to buying. This access information is disclosed to all potential lot buyers.

Based on the community-proposed access plan, protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Providing only two public access points was agreed upon in the Master Plan.

17. A concern stated by the community in the EIS is that "homeowners will be insensitive and intolerable of subsistence activities in what new homeowners perceive to be their front yards." How is this mitigated in the EIS? How will it be prevented or dealt with? Please don't tell me that the "perpetual right to subsistence will be noted on the title" to the property, or that homeowners will "take a class with a kupuna," or be taught "expectation management" and respect. What good will the title notation do in preventing insensitive guests, house-sitters, renters, or other family members whose names are not listed on the title, and have never even seen the title? (The only good that notation does is if one of the homeowners tries to sue a subsistence fisherman for taking fish from "my beach.") [¶] I'm not saying I don't support the idea of having 2 access points - I do - I'm saying that it won't work in an area that has been subdivided with luxury houses (for the myriad of reasons given in this section).

Response: See responses to #8 and #15. MPL is confident that the mitigation measures put in place will mitigate the issues raised by this comment. These measures were developed during the community-based planning process for the Master Plan. With active ongoing participation by the community and the homeowners, its objectives can be reached.

18. Community mana'o on page 107 of the CIA: "They going keep us out. They going to monitor us. Some guys come out and say, 'What you doing on my beach?' ...I say, 'This is our beach.'" Do you recognize the potential here for conflict and even violence? A homeowner telling a longtime Molokai resident who is subsistence fishing on the beach that he is on "my beach," could provoke a violent response. Do you really think you can mitigate such potential through "education" of either party to teach "respect" or "expectation management"? Please cite some precedents, either locally or nationally, where this has actually worked.

Response: See our response to #15 above. Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

19. Imagine a subsistence fisherman, who walked in 3 miles from one of the access points near Hale o Lono to gather food for his family, encountering a homeowner, (who may have gone through CC&R "education"), along with his 10 guests, (who didn't), having a picnic on the beach - sun-tanning, kayaking, playing frisbee or smash-ball, and with a stereo blaring top-40 music, coolers of beer and soda, and a propane BBQ grilling store-bought steaks, fresh from the freezer. All of these people simply walked right down to the beach from the homeowner's property in a matter of minutes. Imagine how the fisherman (who has fished there all his life) will feel just seeing this scene. Now imagine if the picnickers (perhaps one of the boisterous guests) challenge the right of the fisherman to be there. "Hey! Hey Buddy! You can't fish here...This is our beach!" Can you imagine? This is a recipe for disaster and even violence.

Response: See our response to #15 above regarding potential social conflict on the shoreline.

20. And for some reason Plan proponents and the EIS actually believe they can prevent this type of occurrence from happening by "noting the perpetual right of subsistence on the property titles," and making the property owners take classes that will teach them to malama 'āina, and to respect the land and people. I ask again and again, how can this be so? And again and again, what about the guests of the homeowners? Will they be required to look at the title to the property, or to take classes themselves before they can have a picnic on the beach?

Response: See our response to #15 above. The homeowners who have undertaken the program will be responsible for informing their guests of the restrictions and requirements.

21. Hawai'i Revised Statutes Chapter 115-1 states that one of the reasons Hawai'i's rights-of-way and shoreline access laws were created in the first place was because, "the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties." By developing luxury private shoreline properties ringing the entire coastline at Lā'au - a development the majority of the community doesn't want and is already angry about - and then filling those properties/houses with millionaire newcomers who will have preferential access to the shoreline form their properties, and who may even challenge existing residents' (and subsistence gatherers') right to be there, you are creating - indeed re-creating - the very conditions and situation that the law was created to avoid. You are creating a situation that may provoke hostility towards both the landowners and their properties, which could also lead to retaliation against subsistence gatherers who are in the area. In short, you will be creating a very volatile situation - and it is not in the public's or Molokai's best interest to allow such a situation (and such a potential for violence) to be created.

Response: See our response to #1 above regarding shoreline access.

22. I am not simply making threats, nor am I trying to predict or condone violence. Again, please see page 15 of the Cultural Impact Statement, which states that it is "probable that subsistence practitioners will be confronted by insensitive newcomers intolerable of extractive activities in what they will perceive to be their front yards," and refer again to HRS 115-1 above regarding "acts of hostility." Both of these support the possibility or probability of hostility/violence. Indeed, the law was created to put an end to the hostility and violence that was occurring in the past. In other words, there is great legal and historical precedent for not limiting access to only 2 points, especially in an area that is developed with private shoreline properties like Lā'au is proposed to be.

Response: See our response to #15 above regarding potential social conflict on the shoreline.

23. Again though, if you make more than 2 accesses you lose the protection afforded by having only 2 accesses. So you make only 2 and increase the potential for hostility and violence, or do you make

more and increase the potential for destruction and exploitation of resources. It is a real no-win situation. It would be better to simply not develop.

Response: Comment noted.

24. Note: if the properties were moved way mauka (inland; not along the shoreline), this risk would be much less, for there would be no need to create more than 2 accesses (since there would be no shoreline subdivision) and the new homeowners would be limited to those same access points like everybody else (no preferential access). Much safer and more fair.

Response: Various alternatives, including a mauka development, were discussed in Section 6.0 of the Draft EIS. The proposed project was deemed the preferred alternative.

25. HRS 115-1 goes on to state that "the absence of public access to Hawai'i's shorelines constitutes and infringement upon the fundamental right of free movement in public space and access to and use of coastal...areas." Thus, restricting access to the area, either by having only 2 accesses and/or by requiring people to have credentials (i.e. take "mandatory education classes") in order to gain access will be the type of infringement described above on the "fundamental right of free movement in public space." [§]HRS 115-1 goes on: "The purpose of [the] chapter is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines..." The right of access to our shorelines is guaranteed! [§]So once again, while I support the idea of 2 accesses, I do so if and only if all the shoreline homeowners are also limited to those same 2 access points and do not have preferential access from their properties or private rights-of-way. Moreover, while I support this 2-access point idea for the protection of the shoreline, it is against State Law (and County Law) and will eventually be challenged in court by either a homeowner or a member of the general public. I do not support the idea of needing classes or credentials in order to gain access to the coast, for this is also against State Law.

Response: The shoreline access plan was developed with the state law in mind and does not contravene it. See our response to #1 above.

26. According to Hawai'i law, the State and County have an obligation to provide public access, but if they do not, then citizens have a "private right of action to force beach access," which they will likely use at La'au.

Response: See our response to #1 above regarding shoreline access.

27. Page 63 of the EIS proposes "controlling access" to the area based on the "access plan" on page 105 of the Community-Based Master Land Use Plan for Molokai Ranch. (Appendix A.) This access plan is to "seek an ordinance" to create a non-commercial zone and a subsistence management area. However, to do so "will require special legislation to be enacted by the State Legislature." (p. 165, sect 7.4) There is no guarantee how long this legislation will take to enact, and there is no guarantee that it would even pass. What support does it have in the legislature? This legislation must be enacted before any development, and should be part of the permit/entitlement/approval process (and be listed as part of the Permit/Approval chart on page 11, sect 1.7.4). It cannot be an afterthought. What if the Legislature doesn't pass it - what then? [§]It cannot be "will need" or "will create" for these things - they need to be part of the EIS! [§]MPL should seek to establish the subsistence fishing zone now - and have it be permanent regardless of the outcome of the EIS application.

Response: MPL acknowledges that the designation of "subsistence fishing areas" is not a foregone conclusion but is subject to agreement by the DLNR and other organizations outside of its control. To reflect this information in the Final EIS Section 2.3.7 (Access for Subsistence Gathering) has been revised to include the following:

As recommended in the *Community-Based Master Land Use Plan for Molokai Ranch*, to preserve inshore fishing/subsistence resources, a subsistence fishing zone in the coastal waters along all of the Ranch's coastline property will be sought. This means that from one quarter-mile out from the shoreline (north and west shore) and from the beach to the reef edge/breaker line (south shore), only Molokai residents will be able to fish for subsistence, effectively banning off-island boats from fishing in these in-shore areas. State legislation will be needed for this to be enforced.

The 1994 Hawai'i State Legislature created a process for designating community-based subsistence fishing areas (Act 271/94). The guidelines for a community-based subsistence fishing management area in *Community-Based Master Land Use Plan for Molokai Ranch* would need to be developed into a management plan and draft administrative rules for adoption by the Department of Land and Natural Resources (DLNR) Division of Aquatic Resources (DAR) working in coordination with the landowners, the community and the subsistence fishers and gatherers. The administrative rules would need to undergo a public hearing process on Molokai, O'ahu and other neighbor islands. Overall, the process would take from 18 months to 2 years. The development of guidelines and policies for such a management area within the *Community-Based Master Land Use Plan for Molokai Ranch* is the first step toward its establishment.

Once the community-based subsistence fishing management area is established through the DAR rule-making process, the rules will be enforced by DOCARE in conjunction with the shoreline resource managers who will be hired jointly by the homeowners and the Molokai Land Trust.

28. Developing the La'au area won't protect it from off-shore (Oahu/Maui) boats. Establishing the subsistence fishing zone will. We need the zone either way, but we don't need the development in order to have the zone!

Response: Comment noted; see our response to #27 above.

29. How will dogs running loose along the shoreline affect fish (being scared off from the zone)?

Response: Pursuant to the rules of the SAMP, no domestic pets and animals (including hunting dogs) will be allowed in the managed shoreline area. To reflect the information above in the Final EIS, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)", and the SAMP has been included as an Appendix to the Final EIS.

30. I'm very much in favor and support of creating a subsistence fishing zone similar to Mo'omomi; but let us remember, Mo'omomi doesn't have 200 luxury houses along the shoreline, which would make the area quite different!

Response: We note that while Mo'omomi does not have a residential development, many of the pressures on subsistence fishing are the same. The influx of recreational and commercial fisherman have the same potential to deplete resources in either location.

31. *Limiting access to the public shoreline is against State Law, which guarantees "lateral shoreline access." Requiring people to take classes and have ID cards(?) to get access to the public shoreline will be challenged. You can restrict what items can be gathered (and when), and monitor and enforce that, but you can't deny access. Even Mo'omomi, the subsistence fishing zone that is to serve as a model for the Lā'au subsistence fishing zone doesn't control "access," it controls gathering. Neither does Mo'omomi have "mandatory educational classes" in order to gain access. Thus, this will not work, especially when guests of Lā'au homeowners will have direct access to the shore without any classes. How will they be educated and regulated? It's all unequal and unlawful!*

Response: We respectfully disagree. Requiring shoreline users to undergo an educational program is not a new idea for preserving the shoreline resources. Hanauma Bay on O'ahu is one example of an educational program requirement for users. In addition, MPL currently allows limited beach access for MPL employees and Maunaloa residents to the Lā'au area. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

In addition, as discussed in #8 above, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

32. *The access plan - having only 2 public access points goes against the Hawai'i State Constitution, Hawai'i State Law, and the Maui County Code. Thus, the plan in the EIS to control access to the area by having only 2 rights-of-way will not work (because it is against the law). Someone will eventually sue - either a member of the general public of one of the landowners, especially one that does not have a shoreline lot) - and more rights-of-way will have to be opened up, thus opening up the coast to the public and leaving the resources open to exploitation.*

Response: See our responses to #16 above.

33. *Page 102 of the Cultural Impact Assessment states that Molokai residents "fear that the new subdivision will create a segregated community." Indeed, although it is not a "gated community," since there are only 2 shoreline access points, what reason will Molokai residents have for driving through the subdivision? They will likely be eyed with suspicion as if they are scouting homes to break into, and the police may even be called. The CIA goes on to say that "If the residents and the community were both limited to 2 points of access, it would be more fair." [Not to mention provide greater protection and isolation!]. This issue of fair access has yet to be mitigated, nor has the idea of a segregated community.*

Response: See our response to #15 regarding your comment on social tensions. The project is not intended to be a segregated community.

34. *Community mana'o on Page 107 of the CIA: "Bummer to walk along the shore and the owner is out there sunbathing or swimming. You can walk for 20 minutes to half and hour and someone is there and has already scared the fish away." This is a major glitch in the subsistence zone protection.*

How can people catch fish if the fish have all been scared away with kayaks or stereos (boom-boxes) or squealing people playing on the beach?

Response: Although it is recognized that subsistence fishing is an ongoing activity at Lā'au point, there are already other recreational activities taking place there. Denying particular uses to the public will have an adverse impact on both homeowners and the general public. Although some conflict may arise, the extent of the shoreline and the limitations access should provide enough room for all of the activities to be undertaken without conflict. In addition, the SAMP is designed to be a responsive document. Should it be determined that any activity has an adverse impact on the resources in the area, rules may be promulgated to mitigate the impact or ban the activity. As discussed in our response to #7 above, Resource Managers will enforce policies of the SAMP.

35. *The subsistence fishing zone should include provisions that restrict or prohibit certain "recreational" activities....After all, it is a "subsistence" area, not a "recreational" one. Since the homeowners supposedly will have been "attracted" to Lā'au because they support conservation, and have signed the strict CC&Rs, and have been to education classes that have taught them to respect subsistence rights and "malama 'āina," they should have no problems with these additional regulations, right? Please address these points.*

Response: See our response to #34 above.

36. *It's a real conundrum. In order to protect the area you need to restrict access (2 public accesses instead of the mandated 16). However, because the millionaire homeowners and their guests will have direct access to the shoreline from their shoreline properties - by foot or vehicle - and the public has only 2, this will give the millionaires preferential and unequal access. In essence it means that there will be over 100 private accesses to the shoreline (from the shoreline lots) and only 2 public accesses for everyone else. And what of the Lā'au homeowners who don't have shoreline lots (who have property on the mauka side of the road(s)). Will they have some kind of private access rights-of-way too? Why should they? They are part of the general public too (just like everyone else on Molokai that doesn't own a Lā'au shoreline lot). Or will they be restricted to the 2 public access rights-of-way like everyone else, and have to drive down to one of the two to get to the beach? Do you think they are going to want to do that? Somebody will end up suing that the restricted access is against State and County law (which it is), which will open up the area to greater access, thus destroying the protection supposedly had from having just two accesses: If they were to get private rights-of-way, this is even more preferential and unequal. If they don't you can bet they will sue to get public ones for them close to where they live. So, either the Molokai public or the non-shoreline homeowners may sue to get more public access-ways, albeit for different reasons. However, the result is the same and the protection of the area from limited access is gone. At the least there will be more than 2! Garans!*

Response: Your assertion of 100 private accesses is incorrect. The law prohibits blocking access to public areas (including the shoreline) and provides for the establishment of public rights-of-way. It does not allow for the provision of private rights-of-way. See our responses #13 and #15 above regarding accesses and social conflict.

37. *The EIS states that "Existing residents may appreciate the ability to visit La'au Point, a previously inaccessible area." Uh...how is it inaccessible now? And how will the access be different for the public after the development, other than having one park closer on the west side? It is a foot-trail now, isn't the plan for it to still be a foot-trail later?*

Response: Access to any area above the shoreline and any camping or overnight stay is only by permission at this time as it is unimproved rangeland. Currently, there is no parking lot. The two proposed shoreline parks will provide parking and comfort stations, which makes the area more accessible and convenient than existing conditions.

The inaccessibility of Lā'au Point was commonly discussed in interviews conducted for the Social Impact Assessment (Appendix M of the Draft EIS). Even though access has always been permissible via the shoreline, typically, people did not visit Lā'au Point unless they came from inland and received permission by the landowner or unless they trespassed illegally.

38. On page 116 of the CIA regarding trails and access, it says: "Non-Hawaiian access will be determined by the landowner." What the heck does this mean? All shoreline in Hawai'i is public. Are you setting up or trying to create another challenge to Hawaiian rights by excluding or restricting non-natives from the shoreline?

Response: The statement you cite in the Cultural Impact Assessment is a proposed recommendation made by the cultural consultant, which was not included in the SAMP. The SAMP, which has been appended to the Final EIS, contains the Land Trust approved and accepted guidelines.

39. Why will MPL employees have seniority and priority for subsistence hunting? (CIA p. 20) Just cause they have had privileged access all these years? But MPL will no longer have exclusive control over the land – it is supposed to be for the community. Longtime kama'āina of the ahupua'a should have seniority and priority. And does this mean that a new employee of Molokai Ranch – even someone who is a newcomer to the island but happens to work for the Ranch – will have priority? How is this fair?

Response: This system is in fact already in place. It was requested that this prioritization continue as it favors those who live and work in the ahupua'a.

Alternatives (pages 9-14)

40. What is to prevent the Ranch from developing Lā'au and then doing some or most of the other alternatives suggested, such as the Kaluako'i rural subdivision/golf-course, Kaluako'i resort, Maunaloa Agricultural subdivision, etc. (the ones in Table 7, p. 150, sect 6.4)? They reject all of these based on "unacceptable population increase," but again, what prevents them from just doing it later anyway?

Response: When Lā'au approvals are granted, MPL will sign covenants preventing development on their other lands as outlined in the *Community-Based Master Land Use Plan for Molokai Ranch* (provided as Appendix A of the Draft EIS). These will be legally enforceable documents.

41. Please don't tell me that what prevent them from doing this later is the covenants the Ranch will sign, which are supposedly enforceable by the Land Trust. If the Land Trust is controlled by the Ranch (e.g. there are Ranch/MPL members on the Board), and the Land Trust is supposed to enforce the covenants signed by the Ranch regarding no future development on easements and other land, then this is a conflict of interest. How will this be prevented?

Response: No one from MPL is on the Land Trust Board of directors. There is absolutely no conflict of interest. Legal covenants are enforceable by law. The Moloka'i Land Trust is an incorporated not-for-profit organization that is in no way controlled by MPL. MPL is a land and easement donor – nothing more.

42. Page 144, sect. 6.0 of the EIS, states that: "Community concerns were raised about homes at Lā'au Point and whether MPL had been diligent in seeking alternatives that would be more acceptable to the community." These concerns are still present and still raised; they have not been satisfied by MPL or this EIS, nor has MPL been diligent in sincerely seeking alternatives or giving them real chances to work. [q]" Alternatives to the proposed action...are limited to those that would allow the objectives of the project to be met, while minimizing potential adverse environmental impacts." (p.143, 6.0) This is ridiculous. In order for any alternative to actually work, you have to be willing to modify some of the objectives in the plan to allow alternatives to work. Even if the law allows you to stick to your stated objectives, if you really care about the community, you would be open to modification. You can't have a real alternative if you say that all the plan's objectives must be met in exactly the same way, and that the Ranch must make the exact same amount of profit as from the Lā'au development. An alternative, by nature, will involve a different set of variables and conditions – the important thing is that it is a win-win. Right now, the Plan, as long as it includes Lā'au, is a win-lose.

Response: This is a matter of opinion. MPL examined numerous alternatives (see Section 6.0 of the Draft EIS) and selected the optimal alternative to achieve the Master Plan and project's goals (see Section 2.2 of the Draft EIS).

The decisions of all the committees were by majority and all participants were there by choice. No one was stopped from attending the more than 50 meetings of the committees. All decisions were voted on, as were important decisions made by the Land Use Committee; a committee made up of participants from the cultural, tourism, economic, environmental and recreation committees.

MPL looked at each alternative to Lā'au suggested by anyone who attended the year long process. It also participated in and reviewed the alternatives suggested by the ALDC and its consultant Clark Stevens. Peter Nicholas was interviewed by Clark Stevens and EC members attended his alternatives meetings.

MPL is, and always was, open to the key alternative suggested by the ALDC, that a buyer be found for the Lā'au Point parcel so that MPL would not need to develop it.

It is true that if you change the objectives to the Master Plan, then another alternative to Lā'au might work. But if the cornerstones to the Master Plan are that 1) MPL become economically viable and sustainable; 2) a vast amount of land that is culturally and environmentally important to the island be protected in a Land Trust; and 3) the Kaluako'i Hotel re-open, providing jobs for the community, then it is difficult to know which of these objectives to dispense with.

If all objectives are ignored and MPL just has a free hand to conduct its business without taking any notice of a three-year community process, its objective would be purely and simply to sell its land for maximum return. Clearly, this alternative has been rejected in favor of the Master Plan and Lā'au Point project alternative.

If, however, the Master Plan fails, MPL will simply parcel off the land piece-meal to the highest bidders (as discussed in Section 6.0 of the Draft EIS), estimated to take a four to six year period. This is a very real alternative to the proposed action.

43. Section 6.1 of the EIS, the "No Action" Alternative, states that "the property would remain vacant of any additional improved uses...[and the lands] would remain as fallow agricultural land...[and] underutilized due to the poor soils." The community prefers that the land remain "vacant," that is, "unoccupied" with human beings. That way it can remain occupied with animals and native plants, along with all of Nature.

Response: Comment noted.

44. The EIS claims that the soils at Lā'au are no good for agricultural uses (i.e. "poor soils"). This may be currently true; however the quality of the soil can be improved for agricultural uses through the planting of cover crops and other types of vegetation. Indeed, Jason Scott Lee, an apprentice of Japanese Master Natural Farmer, Masunobu Fukuoka (also known as the father of sustainable agriculture), has proposed doing just such a thing at Lā'au. His plan, which incidentally was never sincerely considered as an alternative at Lā'au, involves the planting of a 3-tier system of vegetation at Lā'au starting with ground cover like alfalfa or clover on the first level, short brush such as berries on the second, and fast-growing canopy trees on the third." Basically it means starting with cover crops to improve the soil and progressing to selected food crops to feed the people. Mr. Lee says that "the system would require no fertilizers, pesticides, or even maintenance...you could grow things wild." Not enough water you say? Master Fukuoka has created planting methods designed to both prevent and reverse desertification (agricultural lands turning to desert) and is internationally renowned for his work. If such planting methods can be applied to desert, surely they can be applied to the Lā'au area as well. Not to mention the fact that Mr. Lee is both an apprentice of Mr. Fukuoka (and thus could help implement such an endeavor), and a vocal opponent of the Lā'au development. This alternative should be explored further by the Ranch and the Molokai EC, for it has the opportunity of providing food for the community (and greater self-sufficiency) and is, as Mr. Lee says, "just one of many alternatives to commercially developing the area." [Quotes form the Molokai Dispatch 11/16/06]

Response: Molokai has thousands of acres that are State classified A, B, and C, which are the most suitable lands for agriculture because of their soils, rainfall, and minimal slope. Most of this land remains fallow and has never been developed for agriculture other than for cattle.

As discussed in Section 3.3 of the Draft EIS, the lands proposed for the lots at Lā'au are State classified D and E (the least suitable for agriculture). It would not be economical for MPL to go through vast expense to try to return those lands to agriculture. Under the Master Plan, more than 14,390 acres of MPL's lands are protected for agriculture.

At Lā'au Point, other than the residential project area, the remainder of the Lā'au parcel will be opened for subsistence hunting.

45. Papohaku/Kaluako'i houselots can be subdivided, and probably will be! This will increase the population and increase water use. So, the restriction on Lā'au subdividing in the CC&Rs does very little from a island-wide perspective. Might as well just do these alternatives instead of Lā'au since they are already in the community plan and legal, and will probably be done anyway.

Response: It is speculative to assume that all house lots at Papohaku and Kaluako'i will be subdivided simply because they can be. It is beyond the scope of this EIS to analyze this unlikely scenario.

46. Page 146 of the EIS states that while the "No Action" Alternative would allow the environments of Lā'au Point to remain untouched to the benefit of those opposing development, negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales...appear to have more far-reaching effects upon the economic and social fabric of the larger Molokai community." I strongly disagree...[¶]First, the benefit of leaving Lā'au "untouched" would not be only be to those "opposing development." You forgot the benefits to the island, the community, and to Lā'au itself (not to mention all the animals, plants, and qualities of the Lā'au area.) Moreover, since the majority of the community is in opposition to the Lā'au development, it makes logical sense to provide that benefit (it is what the community wants.) [¶]Second, the negative effects of developing Lā'au will have much more far-reaching effects on the economic, social, cultural, and spiritual fabric of Molokai than any "negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales." Indeed, the Ranch makes such intense predictions of doom if they were to leave: No Lā'au means the impending closure of the Ranch, and the unknown risk, of probable land sales "Basically the collapse of the local, Molokai economy. How dire! These predictions are nothing but veiled threats and "sticks" meant to instill fear in the Molokai community so that they will support the Lā'au development. [¶]If you disagree with or deny this statement above, that the majority opposes the development, then please conduct an official public/community referendum to prove me wrong. Do you disagree or deny it? If so, why? If so, when will you conduct a referendum? If you won't conduct one, why not? What are you scared of? You claim to have "broad-based community support." Wouldn't such a referendum prove such a claim?"

Response: The community has been involved during every step of the planning process. We note that there are also many Molokai residents who support the project. The Master Plan was created by participating community members that volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Molokai. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Molokai. The Lā'au Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the comprehensive Master Plan document.

We note that the vast majority of development proposals in Hawaii are solely the product of the landowner and/or developer, with minimal community input prior to the stage when the proposals face State and County regulatory approvals. Recognizing that community input is crucial to the success of any development on Molokai, MPL, in partnership with the EC, held more than 150 community and special interest group meetings in which more than 1,000 Molokai residents participated. The result was the Master Plan. Adoption and implementation of the Master Plan rests with MPL, and the Land Trust, and with regulators such as the Land Use Commission, the Molokai Planning Commission, and the Maui County Council.

Notwithstanding the community process that went into creation of the Master Plan, the Master Plan requires approvals from State and county agencies which are obligated to review the proposal in the context of a number of different criteria established by law. As with any other development proposal, this Master Plan is not subject to community referendum. Instead, the

community elects State Governments and local government officials to make many decisions on its behalf. Those authorities appoint people to statutory organizations such as the State Land Use Commission and the Moloka'i Planning Commission in order that they can decide issues such as this Master Plan's implementation.

The public process before the Land Use Commission, the Moloka'i Planning Commission, and the County of Maui are the public forums that are adequate for a decision on the Lā'au Point project and its associated Master Plan components.

47. *What has the Ranch done in order to seek a "conservation buyer" for La'au - one of the most preferred alternatives presented by the ALDC ("Purchase of La'au Parcel" page 156 sect 6.5.2)? This is a favored alternative because it would preserve La'au as is (like in the "no action" alternative), while still getting Molokai Ranch the revenue to renovate the hotel, and could still create a subsistence fishing zone. Page 157 of the EIS states that "Should a serious buyer emerge, MPL will enter meaningful negotiations with that party or parties." What has MPL done to seek such a buyer both locally and nationally? If you have done nothing, why not? There are a lot of wealthy individuals as well as public land trusts throughout the country who might be interested in such a thing, but they will never "emerge" if you do not seriously and sincerely get the word out about it.*

Response: MPL is in constant contact with the Conservation Fund in Washington concerning this alternative, has discussed this option with a very wealthy conservationist on the west coast of the United States and has also indicated publicly that it has been in discussions with a large organization interested in cultural and environmental protection.

To date, no firm results have been forthcoming, but it will continue these avenues and hopes other opponents of the Master Plan will do likewise.

As previously discussed in Section 2.3 of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama āina (caring for, protecting, and preserving the land and sea). The project "must be the most environmentally planned, designed, and implemented large lot community in the State." This statement precedes the covenant document determined by the Land Use Committee that will place many restrictions on lot owners. Lā'au Point will be unlike any other community in Hawai'i.

48. *Page 157 also states that: "If a purchaser offers this company a price for the La'au parcel that is equivalent to its development return, protects areas for subsistence as proposed, and provides and endowment income to the Land Trust/CDC as proposed under the La'au Point development plan, it will seriously consider the offer." This is ridiculous. The estimated cost to develop La'au is \$88 million, with \$200 million in sales of the La'au lots. This is a \$112 million return! Is this really the price MPL would consider? Isn't that quite high considering MPL bought the parcel for \$12 million? If that really is the price that would be considered, doesn't this effectively close off this alternative? The hotel only needs \$35 million for renovations anyway, right? So how much is that endowment going to be - \$77 million? How much profit does the Ranch expect to make from La'au?*

Response: At 2007 costs, the Kaluako'i Hotel will cost \$30 million to renovate, and MPL will incur additional losses of about \$5 million on operations before the hotel becomes cash positive. If this is funded from debt, interest costs will add another \$5 million before MPL has any chance of beginning to repay down its loan, taking the total cash outlay prior to the hotel becoming cash positive of about \$40 million.

With approval and implementation of the Lā'au Point project, MPL can fund the hotel re-opening from the surplus.

As previously discussed in Section 2.5 (Development Timetable and Preliminary Costs) of the Draft EIS, MPL estimates it will cost \$80 million in construction costs for the Lā'au development and it anticipates that over time, it will sell the 200 lots for approximately \$200 million. However, in the current market that revenue estimated may be over-stated by as much as between 10 and 20 percent.

Real estate agents fees, the cost of obtaining entitlements and the planned 5% of revenue that goes to the Land Trust from initial lots sales are likely to cost another \$30 million.

Added to that sum will be the interest costs on funding the construction over a two-year period and uncertainty as to when there will be enough revenue to re-pay the debt and accumulated interests costs associated with the lots, road and infrastructure construction.

The overall Master Plan contains more benefits than money alone. It provides the Land Trust with 50,000 acres in the form of land donation and easements, and a perpetual income source through the endowment. Be assured, MPL has no other alternative for economic survival than the Master Plan. Without this Master Plan it will sell its entire property piece-meal over time to obtain the highest prices (as previously discussed in Section 6.2 of the Draft EIS). It can perceive no other alternative to financial viability.

49. *Page 158 states: "Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant Community-Based Master Land Use Plan for Molokai Ranch. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time." This is another threat and a rejection of alternatives. The Ranch is saying this is the "only" way; there are no alternatives to Lā'au besides closing down business and selling off the land. This means that the Ranch is not even open to considering alternatives; so how could the Ranch possibly have been diligent in researching alternatives as required by law, if they truly believe that none exist (and that it isn't even possible for any to exist)?*

Response: See response to #42 regarding alternatives.

50. *The Lā'au development should be part of the chart on page 150-151, (Table 7) showing water use, population, financial return, etc. so that the public can adequately compare the numbers of the Lā'au development versus the alternatives without having to flip all over the EIS for numbers on Lā'au. Same for the breakdowns for each alternative on pages 151-154; there should be a breakdown for Lā'au in the same format to make comparisons easier and more accurate. The "No Action" Alternative, as well as the ALDC's alternatives of "New Town" and Conservation Buyer ("Purchase of Lā'au Parcel") should also be part of this chart and these breakdowns.*

Response: Table 7 is a reference for the discussion in Section 6.4 of the Draft EIS. The "No Action" alternative is discussed in Section 6.1, and the ALDC's alternatives are discussed in Section 6.5.

51. Page 157, sect 6.7 of the EIS ("Postponing Action Pending Further Study") states that "Postponing or delaying the Lā'au Point project for reasons, such as allowing the ALDC to find the necessary funds to purchase Lā'au Point, puts MPL in the positions of being unable to continue its ongoing operations on Molokai." But MPL is already being supported by its parent company (BIL). Surely they could support MPL for another year or two while these alternatives are sincerely researched, and funding/buyers sincerely sought. (This EIS and entitlement process, especially when you consider delays from inevitable lawsuits, could take that long anyway, and BIL has equity of 1 billion dollars to provide that support.) If MPL was truly committed to finding alternatives, they would give this option a chance. Sounds like MPL simply doesn't want to find an alternative. Indeed, MPL talks about not being able to give the ALDC time to find funds...But why doesn't MPL participate wholeheartedly in this effort and use their international network to help to find those funds? After all, it is what the community wants and would be a win-win for everyone - the Ranch would get their revenue and the community would be able to Save Lā'au!

Response: See response to #42 regarding alternatives analysis.

Regarding your comment about MPL being supported by its parent company, BIL has not supported MPL financially since 2002. BIL has a policy of ensuring that each of its operations is self-sufficient. If one is not and has no sustainable future, then quite rightly BIL seeks its liquidation.

We disagree with your assumption that MPL does not want to find an alternative. Section 6.0 of the Draft EIS indicates MPL examined more than 14 alternatives, the majority of which were not suggested by outside parties.

52. What about the "Wai'eli" alternative mentioned in the CIA on page 138, which was proposed because it would have less impact on resources, sites, and place. Apparently the Ranch dismissed this alternative due to water and population increase; however, it was not addressed or discussed in the EIS. Please add it to your table and breakdowns and discussion regarding alternatives (pages 150-154).

Response: Wai'eli, located east of Lā'au Point and Hale O Lono, is within a large parcel to be donated to the Land Trust. Therefore, it was not considered in the EIS as a viable alternative.

53. The CIA states on page 139 that some of the "inland sites in the particular design submitted [for the ALDC's 'view-shed' lots] are extremely significant and highly sensitive?" More significant and sensitive than Lā'au and the Lā'au area? Certainly these sites could be worked around (and given protection) at least as much as those at Lā'au. If not, why not? What sites are being referred to here?

Response: Dr. McGregor only reported concerns that were conveyed directly to her by Mr. Kelsey Mac Poepee. Interview protocol requires respect for the informant who does not have to describe the type of site or exact location of the site. Mr. Poepee stated that the site is extremely sacred and sensitive and its location cannot be revealed.

54. On page 155 of the EIS regarding the ALDC's proposal for a "New Town" and "view-shed" lots, I find it rather convenient for MPL that MPL's analysis indicated that infrastructure and construction would be \$875,000 per lot and would only be able to sell at \$400,000 - \$450,000 per lot. Why are the infrastructure and construction costs so much more than those for Lā'au? Please explain and show a comparison of how you arrived at these numbers for both Lā'au, for this particular alternative, and for all the alternatives. What are the cost breakdowns? How can the public possibly evaluate these numbers if you are just saying it will cost more? How do we know that it really costs more without such a breakdown? How do we know you aren't just saying that to support your position?

Response: A review of this referenced alternative analysis indicates that the cost of getting water to the subdivision from Maunaloa, constructing the lots themselves, getting electricity and services to the development, combined with roadway construction to the lots would cost \$875,000 for 50 view-shed lots proposed by Clark Stevens. The analysis was determined by using current costs for these infrastructure items.

With the same infrastructure cost per lot (\$875,000), Lā'au Point lots, which would sell at an average \$1 million per lot, would yield a positive return. It would not be feasible to put in \$875,000 per lot if expected return would be at a loss (\$400,000).

55. If the cost to renovate is \$35 million, how about this: Forget the endowment, forget the CDC. Sell or donate Lā'au to a Land Trust or put all of it into permanent protective easements. Take the \$ from Lā'au (if sold rather than donated) combined with \$ from sales from Papohaku/Maunaloa lots, and also combined with \$ from BIL (and its 1 billion in equity) and perhaps even some community \$ (from fundraisers or grants), and use all of that to renovate the hotel. Then use the hotel to support the Ranch and all its other operations, as the EIS says it will do. Why not? After all, as I understand the plan, what is really needed is money to renovate the hotel. And then the hotel will sustain the Ranch. That is the crux of the matter. Well, there are a lot of other ways to generate money, and quite frankly, \$35 million isn't that much. If the Ranch would withdraw the plan to develop Lā'au, then the Ranch could put all its energy into finding and raising that money for the hotel. And that is something that the entire community could get behind wholeheartedly, including those that are opposing the development. All of the energy that is currently being used to fight an unwanted development, could be used to helping the Ranch to re-open the hotel, which is something that almost the entire community does indeed support. Why can't the Ranch see this?

Response: MPL's parent, BIL International Limited, will not fund a subsidiaries' development plan as these must be funded on normal commercial terms from lending institutions. As MPL has no sustainable income, and therefore no interest cover, lending institutions would not fund the renovation of the hotel without MPL pledging its entire property holdings, something the company could never do.

We also note that the Master Plan contains more components to finance than just the Kaluako'i Hotel. The endowment, land donations, and easements are "gifts" to the Land Trust that must also be economically viable in perpetuity.

56. CIA page 115, community mana'o: "If they really paid attention to the community we would find a way much sooner to help out the Ranch, but their mind was set already." Page 144 of the EIS uses circular logic in its evaluation procedure to support the proposed development. The Ranch says that the Plan calls for creating a Land Trust, a CDC, subsistence zones, protective easements, conservation land, etc.; and thus, there is a need for "economically viable projects" in order to

Adam Mick
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 21 of 67

"generate revenue and returns" in order to "make the proposed conservation initiatives feasible and sustainable." The Ranch uses all the proposed and created things to justify the need to develop Lā'au in order to fund all these proposed and created things. Fine, then lets just drop all of these "initiatives" which would cause the need for the rest of it to drop too. The Ranch says "No Lā'au, No initiatives." I say, No initiatives. No Lā'au! To paraphrase the testimony of a community member: "With all due respect to the work everyone has put into the Plan, I'd rather see the whole Plan go down the toilet if it has to include Lā'au." I agree, if Lā'au is the "only" way for the Plan to work, then lets forget about the Plan, even if ten years were spent in developing it rather than only two.

Response: Mr. Nicholas explained at the first meeting in January 2003 and on the June 2003 site visit to the south and west shores adjacent to Lā'au Point that MPL was working with PBR on a plan to develop a rural residential development along those coasts. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding the MPL's plans from the beginning, Section 2.4 (Community Meetings and Involvement) has been revised to include the following:

MPL's Intentions at the Commencement of the Planning Process

At the commencement of EC Project #47 "Molokai Sustainable development" the Conservation Fund conducted a two-day seminar on likely outcomes of the planning process and made recommendations as to the process to be followed.

This seminar, attended by community leaders, and many of the current opponents to the Master Plan, including De Gray Vanderbit, Walter Ritte, Glenn Teves, and others, took place on January 28 and January 29, 2003 at the OHA/DHHL conference room at the Kullana 'Ōiwi center in Kāunakakai.

The EC had been adamant that MPL outline its intentions at that meeting. MPL's CEO, Peter Nicholas, prepared a written speech detailing what MPL needed from the process and what it hoped the community could gain. That speech, which is attached as Appendix C, sets out its vision for land protection, and its needs for a future development to sustain its on-going activities and curb its losses.

Many comment letters to the Draft EIS asserted that Lā'au Point was brought up only at the end of the community planning process. Page 2 of the speech clearly indicates the contrary, as it states: "Economically, we need some development at Lā'au Point, because the Kaluako'i Hotel and Golf Course will almost certainly lose money for many years until a marketing campaign kicks in. We need a larger financial engine than just the hotel and the golf course."

Subject to that speech, there was only one question concerning its Highland Golf Course option: an option that was subsequently discarded at the wishes of the Cultural Committee.

MPL believes it was always honest in its intentions and outlined all its proposals at the commencement of the process.

We strongly disagree with your opinion that we should "drop" the entire Master Plan if it includes Lā'au. Given the time and effort of the community members in creating the Master Plan, we feel that this project is the most feasible alternative in reaching the plan's objectives.

Adam Mick
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 22 of 67

57. All the proposed alternatives were rejected using criteria set by the Ranch, and compared to the Ranch's own stated objectives in the EIS. Thus what prevented the Ranch from skewing results to make them look good? How about a neutral, third party analysis of all of the alternatives?

Response: The EIS, including the Alternatives section, has been reviewed and analyzed by the Draft EIS reviewers, like yourself, and will be considered by the decisionmakers/approving agencies. MPL certainly is confident of the objectivity of its own analysis but cannot support any proposal that proved to be an additional financial drain.

58. According to page 52 of the SIA, "those involved in the ALDC process felt that their efforts and recommendations went unheeded. They cited the short time frame in which they were to produce their report, and felt that decisions were made without consideration of their input. One person's perspective was that the process employed manipulation, fear-based thinking and a hastened time frame." Is this called seeking alternatives?

Response: See response to #42 regarding the process and time frame for alternatives development.

59. Page 18 of the CIA states that: "[The Plan] sets unique precedents for the development of landholdings by offshore corporations...to mitigate the overall impacts of the proposed development." This is another "carrot" for certain community leaders - the opportunity to be an example for the State of "controlled" or so-called "sustainable" development. Look how great we are. We created the most environmentally planned, designed and implemented large lot community in the State. Well I have a better idea: how about an example of a place with no development! Sustainable development is a noble pursuit; it is highly commendable, indeed the idea of environmental CC&Rs and building guidelines should be attached to every development in the State. It is definitely the right idea, but it is simply in the wrong place - Lā'au should not be the example. Not Lā'au! Indeed, the more noble approach in my eyes is called leaving a place alone. Leave a place - one of the few and only places left - that has no development (i.e. it has been spared from development and is still in its wild and natural state). Let that be the example for the State. Let the land lie "fallow" and value nature...for itself. [¶] Instead of being a model of sustainable development (e.g. an environmentally sensitive luxury residential subdivision), Molokai could (and should) more appropriately be a model of sustainable agriculture and sustainable farming. (Please see one example above regarding Masunobu Fukuoka and sustainable agriculture/farming for Lā'au Point.)

Response: Comment noted. The Master Plan goes beyond any agreement reached by a community through litigation. Should this plan fail, no objective will be achieved.

60. Page 54 of the SIA states that "people value the pristine nature of Lā'au Point...Ideally, for them, no change would come to Lā'au Point." Simple enough! [¶] However the SIA goes on to say that, "Nevertheless [people] are willing to accept the [Lā'au] Project because they understand that its implementation is the only way the Plan can be implemented." Saying the project is the "only way" to implement the Plan, the "only...springboard for the Plan," is saying that the Ranch "cannot consider any alternatives because there aren't any." That's not right! There are always alternatives...

Response: See response to #42 regarding alternatives.

CC&Rs

61. Page 5 of the EIS states that "residents of La 'au Point will be educated and informed about the environment and culture, and taught to 'malama 'aina," (take care of the land and sea) through strict CC&Rs." We can't even teach many of our own people of Hawai'i to 'malama 'aina (including many Native Hawaiians), let alone a bunch of malihini millionaires; so what is the precedent for being able to teach rich newcomers these things?

Response: The comprehensive planning process and creation of the Master Plan and this project is an unprecedented task for any large landowner in Hawai'i. There has been success with this type of education program for Maunaloa residents and the beach pass program.

62. CC&Rs must be shown to have legal precedent - i.e. that they will all hold up in Federal, State, and County law, especially the part saying that they "cannot be changed." [§]Can MPL absolutely guarantee that the CC&Rs will be unchangeable? Permanently? How so? If not, why in the world should this development be approved since so much of the protection in the EIS hinges on these CC&Rs being unchangeable? [§]The CIA says that "measures will be taken to assure that the CC&Rs cannot be changed in the future." This doesn't sound too guaranteed to me. What are these measures? When will they be taken? By who? [§]What is the legal precedent for unchangeable CC&Rs? This is very, very important, for if one falls, they all fall! (That is, if one of them is challenged in court and struck down, that means they are not "unchangeable," and thus all the rest of the CC&Rs are also threatened.)

Response: MPL has sought legal counsel to draft the CC&Rs using the Master Plan for guidance. MPL received advice that the provisions are enforceable firstly because they will be signed as a pre-condition to lot ownership, and more especially as the Moloka'i Land Trust will be a party to the CC&Rs. As a party to the document, the Land Trust can litigate their enforceability.

63. CC&Rs are currently only "in draft form." Final CC&Rs must be part of the final EIS, and must all be shown to be lawful and truly unchangeable before the EIS/development can be approved, not figured out later. You cannot approve development and then make up CC&Rs. (p.5) The public needs a chance to evaluate the Final CC&Rs.

Response: As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

64. Can you legally say "no further subdividing" will be allowed? If so, can you really legally make that permanent (e.g. "unchangeable.")? Even the U.S. Constitution is changeable/amendable.

Response: Yes, the CC&Rs can legally prohibit further subdividing.

65. Who will enforce the CC&Rs? The police? (Doubtful) The developer? (No, they sold it, along with their responsibility). The La'au Homeowners Association? [§]If the La'au Homeowners association is in charge of enforcing the CC&Rs, what happens if all of the members are simply against them,

and they simply choose not to enforce them. What then? They may be "unchangeable," but if they are not enforced, they might as well not exist. Who will police the enforcers?

Response: The CC&Rs will be monitored and enforced by the Board of the Association of Owners of La'au Point, affected lot owners, and in certain circumstances, the Moloka'i Land Trust as a signatory and Molokai Properties Limited as the Declarant under the CC&Rs. Failure to comply with the terms of the CC&Rs would expose the non-complying owner to sanctions which include monetary fines, suspending an owner's right to vote, suspending services provided by the Association, exercising self-help or taking action to abate any violation, removal of the non compliant structure or improvement, precluding contractors, agents, or employees of any owner who fails to comply with the terms of the CC&Rs.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding covenants and enforcement, Section 2.3.6 (Covenants) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.3.6 (Covenants)."

66. In answer to question 97 of consultant DeGray Vanderbit comments regarding CC&Rs currently being only in "draft form," the Ranch states that: "Design guidelines and construction rules for La'au Point are not yet drafted. Typically CC&Rs, design guidelines, and Construction Rules are not provided in as part of an EIS." Okay, but the La'au Point project is supposed to be "the most environmentally planned, designed and implemented large lot community in the State," (p. 150, CIA; p. 23 EIS) and so much of the mitigation of negative impacts and protection of resources/lifestyle/rights/etc. hinge upon these CC&Rs. It is not your typical development; thus, it should not be your typical EIS. More should be demanded of the developer, since more is being promised. Any mitigation that depends on something not yet created is not mitigation. Those things must be in place as part of the EIS, so that the public can analyze and evaluate them, not proposed as plans that will eventually be done by someone.

Response: See our response to #63 regarding the CC&R review.

67. Page 29 of the EIS says that "enforcement and substantial penalties will be put in place." Who will enforce? Who will penalize? Again, if it is the homeowners association policing themselves, what is to prevent them from simply looking the other way when other homeowners don't uphold the CC&Rs (i.e. I'll scratch your back, you scratch mine.)?

Response: See our response to #65 regarding CC&R enforcement.

68. Some of these CC&Rs may be against the law. And it seems extraordinary that there is no provision to allow changes to them. But, if you make such a provision that allows changes, then the purpose of the CC&Rs falls apart in the EIS. However, it is hard to believe that they won't event be challenged by the homeowners as unlawful, regardless of what they "signed," since they had no voice in making them and will have no voice to change them. Again, even the U.S. Constitution is amendable!

Response: See our response to #62 regarding the legality of CC&Rs.

69. Floodlights orientation/shielding will be regulated by the CC&Rs. Will the brightness of the lights also be regulated?

Adam Mick
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 25 of 67

Response: Yes. As stated in Section 2.3.6 of the Draft EIS: "Exterior lighting must be shielded from adjacent properties and the ocean." This covenant will mitigate concerns regarding light brightness.

70. *The CIA says that the Land Use Commission can "endorse the guidelines and CC&Rs...[and] assist in the enforcement of the CC&Rs by making them part of the conditions of the re-zoning." But this is currently impossible. How can the State LUC possibly endorse or enforce these guidelines and CC&Rs if they are only in draft form and not part of the EIS in final and permanent form?*

Response: See our response to #63 regarding CC&R review.

71. *The CIA states on page 17 that the covenant document will "place many restrictions on lot owners at Lā'au Point, in order to attract only those who are concerned about conservation." This assumes the Ranch will actually be able to find these kinds of people who both concerned about conservation and also rich - not necessarily your usual combination (especially when you are talking about finding 200 such people)! Indeed, a lot of people who are truly concerned about "conservation" would very likely be against the Lā'au development. So how do you expect to find such people? And what if you can't? Will lots then be sold to people who aren't concerned about conservation? Won't that greatly affect a lot of things in the EIS. It seems like an awful lot is hinging on "maybe" being able to find such buyers.*

Response: As previously discussed in #47, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of malama āina (caring for, protecting, and preserving the land and sea). The project "must be the most environmentally planned, designed, and implemented large lot community in the State." This statement precedes the covenant document determined by the Land Use Committee that will place many restrictions on lot owners. Lā'au Point will be unlike any other community in Hawai'i.

72. *The CIA goes on to state that "MPL will attempt to attract buyers to the Lā'au Point subdivision who reflect the hopes and aspirations of the community," by using brochures that will be reviewed by the EC to make sure they send the proper message. Again, what if MPL and the EC cannot attract those buyers (because they simply aren't rich enough, or don't think the development was pono)? What then?*

Response: As discussed in Section 4.8.2 and Appendix K of the Draft EIS, based on market data from comparable non resort settings, the limited availability of low-density oceanfront and near ocean property anywhere in the state, and the special conditions and requirements associated with ownership at Lā'au Point, it is anticipated that annual demand for residential lots at Lā'au Point will range from 35 to 45 lots a year. Based on the real estate market analysis provided in Appendix K of the Draft EIS, we are confident that Lā'au Point will attract buyers.

73. *One of the consultants asked in his comments what will prevent homeowners from simply draining their chlorine-filled swimming pools directly onto the ground? The Ranch's answer: "Hawai'i law regulates how swimming pools will be drained." But the question was not if there was a law; the question was what will prevent a homeowner from simply ignoring that law. It is a question of*

Adam Mick
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 26 of 67

monitoring and enforcement, which has not been answered. Who will monitor these people to make sure they are following the law? Will somebody be checking up on them every day?

Response: Most people are law abiding citizens who respect and comply with the law and not willingly ignore it, as you suggest. Enforcement will be done by DOH as it is in other communities throughout the state.

74. *Let me give a different situation to clarify the question. The CC&Rs, rather than Hawai'i law, will prohibit pesticides and allow only organic fertilizers. Who is going to check these homeowners' private property to make sure they have no pesticides and only have organic fertilizer? The homeowner's association? Couldn't they just choose to 'look the other way' on things like this, or on things like the draining of swimming pools?*

Response: As addressed in #73 above, it is a reasonable expectation that people will respect and comply with the law and not willingly ignore it, as you suggest. It is beyond the scope of an EIS to address assumptions of potential illegal actions which will be enforced by another entity.

75. *The CC&Rs are abstract and ambiguous! Take this example of the pesticides and organic fertilizer. Will all pesticides be prohibited? Or will only "synthetic pesticides" be prohibited and natural pesticides (like pyrethrum) be allowed? What do you mean by "organic fertilizer"? Whose definition are you using? Is blood meal considered "organic," or only things like kelp meal? Or will you be following the US certified organic guidelines that define what is allowable as an organic fertilizer? These types of details need to be part of each and every covenant, condition and restriction in the CC&Rs and included in final form in the EIS so that the public can adequately evaluate them. The EIS/development cannot be approved with draft form or ambiguous CC&Rs, and with the details added in after the fact. This needs to be done now.*

Response: Specific types of permitted and prohibited fertilizers will be determined and provided later in the Design Guidelines, during the design phase of the project. To address this issue, Section 2.3.6 of the Final EIS has been revised to include the following:

- **Pesticide/fertilizer restriction.** Pesticide use will be prohibited. Only organic fertilizers will be allowed, although this has not been finalized as some concern was raised in comment letters concerning potential damage to fisheries from organic fertilizers as well.

76. *What about house colors? What colors will be allowed? Which ones will not? Details! And again, who will enforce and regulate this? How? What are the consequences of non-compliance? Will the homeowner have to pay a fine? Or will they have to change the color of their house? If they only have to pay a fine, and since they all will be wealthy, this will not be much of a deterrent for this or any of the CC&Rs; so does that mean, after they pay their fine we will all be stuck with a red house in Lā'au? And if one house can be painted red, it won't be long before we have a virtual rainbow of houses in Lā'au, right?*

Response: As discussed in Section 2.3.6 of the Draft EIS, all structures will be required to blend into the surrounding landscape. Specific house colors allowed/prohibited will be detailed in the Design Guidelines. These provisions are enforceable, firstly because they will be signed as a pre-condition to lot ownership, and more especially as the Moloka'i Land Trust will be a party to the CC&Rs. As a party to the document, the Land Trust can litigate their enforceability.

Adam Mick
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 28 of 67

the following website: <http://www.energystar.gov>. For example, all dwellings will be required to have solar panels (or comparable technology) sized to meet at least 80 percent of the hot water demand of each home. Other energy-efficient measures will be required in the La'au Point Design Guidelines.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding CC&Rs, Section 2.3.6 (Covenants) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.3.6 (Covenants)."

Our response to #65 above addressed your concern regarding CC&R enforcement.

80. Page 23, section 2.2.1 of the EIS says the restrictions placed on the landowners will attract "only those buyers who are concerned about conservation." Please tell me, who that is concerned about "conservation" can afford \$1million luxury homes, besides celebrities? And even, if you do find some, do you really think you can find 200 of them?

Response: See response to #47 regarding target buyers.

81. Page 16 of the CIA states: "MPL clarified that the lot owners will be required to uphold the CC&Rs." Yes, but once MPL sells the lots they will no longer have any responsibility to make sure the homeowners actually do so. This will be up to the Homeowners Association made up of...the homeowners! These people might not be able to change the CC&Rs, but they can all look the other way and not uphold/enforce them. For if they all decided together not to, who will make them? Who monitors the monitors? Who enforces the enforcers?

Response: See response to #65 regarding CC&R enforcement; The Moloka'i Land Trust will be one of the entities.

Development and Environment

82. There are so many things in the EIS meant to "protect" the La'au area - especially the natural environment. Yet the Cultural Impact Assessment calls the La'au area "pristine." Which leads to a question that Consultant DeGray Vanderbilt asked in his comments, "What is the reason(s) La'au Point is the unspoiled coastal environment it is today?" The Ranch's answer: "La'au Point is currently vacant, undeveloped land." That is a very telling and important statement. This undeveloped, unoccupied land, provided the greatest protection during all these years - much greater than a "controlled development" or an "expanded conservation zone" or any number of management plans, rules, and restrictions. Yes, it would be good to expand the conservation district, make a subsistence fishing zone, and get the commercial fishing boats from Oahu/Maui out of there - and this should be done regardless of the outcome of this EIS; but the reason that La'au is so unspoiled and pristine - even in today's modern, polluted, overpopulated world - is simply because it has been left alone - undeveloped and unoccupied (as the Ranch points out). Thus, let us leave it that way in perpetuity for the generations that will follow. [¶]The Cultural Impact Assessment, on page 155, says that "this plan takes risks." But the risks are too great. The whole thing - the CC&Rs, the access plan, is all a big risk! And the price for failure is profound.

Response: We note that the CC&Rs, the Shoreline Access Management Plan, and the Master Plan can also set important precedents for all of the islands.

83. Page 8 of the EIS states that "the project area [is] on only eight percent of the La'au parcel...[and] this keeps the remainder of La'au's 6348-acre TMK parcel in open space." This is a misleading

Adam Mick
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 27 of 67

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding covenants and enforcement, Section 2.3.6 (Covenants) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.3.6 (Covenants)."

77. And again, if one CC&R is broken, or allowed to be broken with only the payment of a monetary fine as a penalty, then aren't all of the CC&Rs in jeopardy?

Response: As discussed in #62 above, MPL received advice that the provisions are enforceable, firstly because they will be signed as a pre-condition to lot ownership, and more especially as the Moloka'i Land Trust will be a party to the CC&Rs. As a party to the document, the Land Trust can litigate their enforceability.

78. Please discuss what penalties there will be for homeowners for not upholding the CC&Rs. Please give a breakdown for each CC&R, as to what the penalty will be. Please explain why fines will be a deterrent for wealthy landowners who could easily just pay it can continue to disregard the CC&Rs. If fines are to be used, they should be done along with the requirement to correct whatever CC&R has been broken. Thus, if someone paints their house red, they should receive a hefty fine and also need to repaint their house. The fine should increase with each month they do not correct it. A breakdown of penalties, consequences, and fines should accompany each final CC&R in the EIS so that the public can evaluate if the penalties are strict enough to encourage compliance. ¶ Community mana'o (p. 124 CIA): "[A] \$2000 fine is nothing to them. Not going have someone there all the time to make sure they won't damage the conservation. Should lose their land."

Response: As addressed in #73 above, it is a reasonable expectation that people will respect and comply with the law and not willingly ignore it, as you suggest. In addition, a resident resource manager will live onsite to enforce policies of the SAMP. As previously shown on Figure 18 of the Draft EIS, the conceptual plan for the south shoreline park includes a "caretaker's residence."

79. Page 9 of the EIS states that the CC&Rs will "encourage energy-efficient design." Encourage? Who will enforce? And how will it be encouraged anyway - with tax incentives for wealthy landowners who don't need them? What will the encouragement/incentives be?

Response: Energy-efficient design standards will be incorporated into the CC&Rs for La'au Point. To include this information in the Final EIS, Section 2.3.6 (Covenant) has been revised to include the following:

- **Solar power.** Solar panels requirement (or comparable technology) for water-heating sized to meet at least 80 percent of the hot water demand of each home and to supplement electric power for appliances will be required.
- **General energy.** All energy systems shall be designed and constructed to meet United States Environmental Protection Agency (EPA) conservation standards. An example of an EPA conservation standard is the ENERGY STAR program, which was established in 1992 for energy-efficient computers. Now a joint program under the EPA and the U.S. Department of Energy, the ENERGY STAR program has grown to encompass more than 35 energy-efficient product categories for homes and workplace. Homes that earn the ENERGY STAR designation must meet guidelines for energy efficiency set by the EPA. ENERGY STAR qualified homes can include a variety of energy-efficient features, such as effective insulation, high performance windows, tight construction and ducts, efficient heating and cooling equipment, and ENERGY STAR qualified lighting and appliances. These EPA standards for the ENERGY STAR program can be found at

statement. Indeed, in a contradicting statement on page 24, the EIS states that "the project area [is] 1432 acres." This means the project area is actually 23% of the Lā'au parcel not 8%. Sure, the Ranch means only 8% of the lands will have private property lots with houses, but the public should realize that 23% of the Lā'au area will be developed, altered, or directly impacted in various ways.

[¶]The above statement is also misleading because this 8% of the parcel stretches for 5.2 miles along the shoreline. The rest of the parcel is up mauka. The Ranch rejected alternatives to develop the mauka area instead and leave the shoreline alone because they claim they would not be able to get enough \$ per "view-shed lot." (p. 155)

Response: The total 1,432-acre project area includes the offsite access road corridor, which is not contained within the larger 6,348-acre Lā'au parcel (see Figure 1 of the Draft EIS). Using Table 1 (page 27 of the Draft EIS) as reference, the developed areas of the project (house lots, on-site roadways, infrastructure, and public parks) total 477 acres, approximately eight percent of the Lā'au parcel.

84. In response to consultant DeGray Vanderhill's inquiry into details regarding the sales, acquisitions, land-use, and land-use history of Kaluako'i, the Ranch states that these details are "not relevant to this EIS for Lā'au Point." I disagree. Everything about Kaluako'i is relevant since the Lā'au project is needed for Kaluako'i. They are linked throughout the EIS and the Plan ("No Lā'au = No Kaluako'i hotel = No more Ranch"). Thus the Ranch has made such details relevant by tying the two areas/projects directly together. Indeed they are using Kaluako'i as the "carrot" for Lā'au. (The Kaluako'i hotel and the Land Trust are the "carrots," and the threat that the Ranch will have to close down, leave Molokai, sell its lands, and lose all its jobs, are the "sticks.") Can and will the Ranch now answer the question about Kaluako'i?

Response: The renovation and re-opening of Kaluako'i Hotel is one part of the overall Master Plan. The past sales, acquisitions, and land uses do not have significant effect on the proposed future plans for the hotel. Applications and permits for Kaluako'i will contain information on these subjects that are required for those applications. The permitting processes for Kaluako'i allow for separate public input. The EIS process is a disclosure document on the impacts of the proposed project. Kaluako'i is not an impact of the Lā'au Point project, but rather a proposed additional project with its own permitting process. What is relevant to Lā'au Point from the renovation and re-opening of the Kaluako'i Hotel has been previously addressed in the Lā'au Point EIS and the Master Plan.

85. What about chemicals from all the sunscreen that will wash off into the water? How will this be mitigated?

Response: Chemicals from sunscreen washing off into the water is an issue for the Clean Water Branch of the Department of Health to regulate. Therefore, it is not included within the scope of the EIS.

86. Page 169 of the EIS states that: "The findings of the Cultural and Social Impact Assessments provide...rationale for proceeding with the project based on community input." Please read the CIA and the SIA. The majority of the community input in these assessments is overwhelmingly against the project! The SIA and the CIA may have provided certain rationale for proceeding in their conclusions, but the community input within these assessments does not support that position. Indeed, there is just as much rationale for not proceeding, if not more, based on the community input. Please read the community's quotes! [¶]Development is like a cancer. Once it starts it will spread. Once it starts it is very hard to stop. "After all," a developer will say, "there is already one

development, why not two? There are already 200 houses, why not 300 or 400? Molokai allowed this one at Lā'au, why not a new one at Pala'au? The best "cure" for cancer is prevention - don't let it start in the first place. Don't allow the development to start. Like cancer in a body, it will kill the island of Molokai. How can you let that happen?

Response: Please see responses to #46 and #56 regarding Alternatives and community involvement. The findings of the Cultural Impact Assessment (CIA: Appendix F of the Draft EIS) and the Social Impact Assessment (SIA: Appendix M of the Draft EIS) were inclusive of the community's input.

We disagree with your assertion that the majority of people contacted were against Lā'au Point. As discussed in Section 4.4 of the SIA, the input ranged from full support of Lā'au Point and the Master Plan to conditional acceptance of Lā'au while supporting the Master Plan. In addition, input included opposition to Lā'au Point while supporting the Master Plan, and opposition to both Lā'au Point and the Master Plan. While project and Master Plan opponents were the most vocal in expressing their views, we cannot discount the people who offered their thoughtful and sometimes complex reactions to Lā'au Point.

We strongly disagree with your analogy of this project, or development in general, to "cancer," and that it will "kill the island of Molokai." The proposed Lā'au rural residential development would potentially increase the Maunaloa population back to the level that it was before the pineapple plantation phased out. According to the 1970 census, Maunaloa was a bustling town of 872. At that time there was a full-service gas station, a large grocery store, a couple of restaurants, and a fully enrolled elementary school. The 2000 census reported the population of Maunaloa as 230. The gas station is only open for a few hours a day, the grocery store has a limited number of items and the only restaurant is part of the Molokai Ranch Lodge Hotel and the elementary school is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 70s and 80s, the overall population of West Molokai only increased by 53 from 2,515 in 1970 to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai or lengthening lines in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

The "spread" of development is controlled by the County Planning Department, the Planning Commission, and State agencies such as the Land Use Commission and State Office of Planning, which make decisions regarding new development on a case-by-case basis. These agencies are instrumental in formulating policy which either encourages or discourages new development in various locales throughout the state.

Flora
87. On pages 6 and 43 of the EIS, it says, "Only the 'ih'i'hilaaukaea (Marsilea Villosa) population is located within the proposed development area. Buyers of lots where 'ih'i'hilaaukaea is present will be notified, and a management plan will be developed for the conservation of rare species." However, in the Botanical Study (Appendix B, Sect. 4) it says, "None of the significant plant populations are found within the areas indicated for the 200 house lots or rezoning from Ag to Rural...Marsilea Villosa populations are all found within the existing or proposed conservation districts..." This is a contradiction. Is the 'ih'i'hilaaukaea within the development area (the area where there will be houses) or not? Pages 6 and 43 say yes and that buyers will be notified about it being there. The Appendix says no, there is none.

Response: We confirm that 'ihī 'ihilaueka has been found around Kamāka'ipō Gulch, which is included in the project area because this area is proposed to be re-districted into Conservation District and designated a cultural protection zone. The 'ihī 'ihilaueka population is not within the proposed residential house/lot area.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding this issue in the Final EIS, Section 3.6 (Flora) has been revised as shown in the attachment titled, "Revised Section 3.6 (Flora)."

88. *Page 43 of the EIS says the "management plan is to be developed by the Land Trust as the easement holder." To be developed? The management plan(s) need to be created now. How can the public possibly and adequately evaluate any plan(s) if there is no plan included as part of the EIS? Like so much in this EIS, the developer is passing on the responsibility of mitigation and protection to someone else – some other organization who is supposed to come up with a "plan" ...eventually. Indeed, according to this, it appears the plan won't be developed until after an endangered plant is found, rather than preparing the plan now, which is what an EIS is supposed to do.*

Response: The flora management plan is incorporated in the SAMP. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding this issue in the Final EIS, Section 3.6 (Flora) has been revised as shown in the attachment titled, "Revised Section 3.6 (Flora)."

89. *How will dogs running loose along the shoreline affect the 'ihī 'ihilaueka and other plants? (F)How will you prevent dogs and/or people from tromping on the 'ihī 'ihilaueka and other plants?*

Response: As addressed in response #29, dogs will be prohibited from shoreline area.

90. *What about the 'ihī 'ihilaueka "seedbank?" How will the bulldozing and clearing of land for lots and roads affect this seedbank, which lies mauka of the shoreline? Was the seedbank taken into account when planning setbacks and other zones? (F)The Botanical Survey (Appendix B) was done over a matter of days. How does the survey account for longer seasonal blooms of 'ihī 'ihilaueka and other native plants, some of which may have 5 or 10 year cycles, and thus, may not have been evident during the time of the survey in areas proposed for houses, or in blooming amounts/numbers that may occur on a longer seasonal basis?*

Response: The population and adjacent areas where the 'ihī 'ihilaueka seed bank may persist are within the coastal setback and should not be disturbed by clearing.

Fauna

91. *How will dogs running loose along the shoreline affect monk seals? How will any impacts be mitigated?*

Response: As addressed in response #29, dogs will be prohibited from shoreline area.

92. *How will streetlights and lights from houses affect monk seals, turtles and seabirds? How will this be mitigated?*

Response: As previously addressed in response #69 above, the CC&Rs require that all exterior lighting be shielded. Although the subdivision roadways will be privately-owned, the street lighting standards will conform to County of Maui standards. Lā'au Point outdoor lights will include low-wattage, low-pressure sodium lamps that direct light downward, as recommended by the County's proposed Outdoor Lighting Standards, to curtail light pollution that interferes with astronomical observations and prevent turtles and seabirds from being disoriented during their migration. This recommendation is also promulgated by the US Fish & Wildlife Service.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding impacts to fauna in the Final EIS, Section 3.7 (Fauna) has been revised as shown in the attachment titled, "Revised Section 3.7 (Fauna)."

93. *The EIS states on page 65 that "Earthmoving equipment is expected to be the loudest equipment used during construction." What will be the effect of this noise on monk seals, birds, turtles, and fish (who may be scared off out of reach of subsistence gatherers)? Please address each separately.*

Response: As stated in Section 4.5 of the Draft EIS, construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures will be employed to minimize construction-related noise and comply with all Federal and State noise control regulations. The substantial setback from the shoreline (250 to 1,000 feet) will also provide a buffer against potential noise impacts caused by construction activities.

94. *How will everyday residential noise such as from stereos, TVs, cars/trucks, power tools, etc. affect monk seals, turtles and seabirds? How will this be mitigated?*

Response: The substantial setback from the shoreline (250 to 1,000 feet) will provide a buffer against potential noise impacts caused by everyday residential noises.

95. *Page 44, section 3.7, says that: "The project increases the potential for interactions between humans and the endangered species [e.g. monk seals]." Uh...you think? And again, the EIS proposes mitigation that depends on "education," "protocol," "laws, enforcement, and wishful thinking to mitigate these impacts, rather than by simply not developing the area in the first place. If you don't develop there is no chance for increased interaction and harm. Indeed the EIS states: "Residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction," which, of course, is to "notify National Marine Fisheries...who will then put up tape around the site to keep people from approaching too closely." Do you realize how ridiculous this sounds? Putting tape around them to "protect" them, in a place where they are currently protected by the isolation of the area, and when they would have so much better protection by not putting a bunch of houses and people along that pristine shoreline that they inhabit. (F)Moreover, this all puts an awful lot of faith into people – that they will actually do what they are supposed to do (i.e. "the appropriate human behavior"). Page 44 states that monk seals like "deserted beaches [and] beaches not heavily used by people." The development would cause these beaches to no longer be deserted and to be much more used, and will thus impact and affect the seals greatly. It would be so much better to just leave the place alone.*

Response: We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The SAMP contains a plan and recommendations developed in consultation with the National Oceanic and

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 33 of 67

Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding impacts to fauna in the Final EIS, Section 3.7 (Fauna) has been revised as shown in the attachment titled, "Revised Section 3.7 (Fauna)."

96. *And how will the people be educated? "The information would be included in the CC&Rs and other educational materials given to Lā'au Point buyers." (p.44) How will you ensure that they read them? What about the other members of their families? What about their guests, house-sitters, or renters? Will they be expected to read this information? Who will ensure that they do? Will the homeowner be expected to give a little class for each of his guests and/or sit them down with the material to read? Who will verify that it is done? If he is not required to do so, how will these other people learn the "appropriate human behavior?" What consequences will there be for the homeowner if he does not educate his guests on these matters?*

Response: See our response to #6 above regarding the education program.

97. *Page 44 also states that: "The impact of the Lā'au Point project on birds is not expected to be significantly adverse. [Since] the vast majority of the parcel will be left in its natural condition, these species could readily relocate and re-populate adjacent open spaces." How arrogant! They were, and are, there first! This is the typical western colonizer perspective - "the natives can just move out and re-populate elsewhere." In this case, the natives are the animals and plants! I got a better idea. How about our supposedly enlightened and superior species not locate there in the first place and go and do our populating (and over-populating) in other areas, adjacent or not? [¶] Does the EIS statement that "species could readily relocate and re-populate adjacent open spaces" apply equally to monk seals and turtles?*

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 34 of 67

Response: The SAMP addresses other biological and endangered species protection. A long term monitoring program will be developed to adapt to changing circumstances and to measure the effectiveness of the mitigation measures. The response to this specific comment is incorporated into the attachment titled, "Revised Section 3.7 (Fauna)."

Land Trust

98. *The EIS states that the lands of the Land Trust can "never be sold." Is this true? Why? How? What if the Trust goes defunct? What then?*

Response: The Land Trust mission statement and by-laws prevent the sale of donated land. The donated land from MPL will also be donated with restrictions that it cannot be sold. In the unlikely event the Land Trust goes out of existence, its by-laws state that donated land will pass to another non-profit organization with the same mission; protection and preservation of the land.

99. *Can the lands in the Land Trust be developed (by the Land Trust)? In other words, could the Land Trust just end up being another Molokai Ranch...another developer?*

Response: The Land Trust's lands will have restrictions placed on them, and the Land Trust documents will prevent development.

100. *Consultant DeGray Vanderbilt asked in question 43 of his comments: "Will the Land Trust have jurisdiction over future development on its lands?" The Ranch's answer was: "The Land Trust will own the lands...[the Ranch] is unable to respond on their behalf regarding future development." May I respectfully suggest then that the Ranch go and ask the Land Trust for an answer regarding this question. The Public should have a chance to evaluate the Land Trust, and what it will and will not be able to do with its lands. This is even more important since the EIS continually uses the Land Trust to "offset" negative impacts of the development. The EIS also suggests that much land will be "protected" by and through this Land Trust. If these lands can just be developed anyway, what good is the Land Trust? The public has a right to know, and thus the Ranch needs to get an answer to this question and include it in the EIS.*

Response: The Moloka'i Land Trust is a private, non-profit corporation with its focus on land conservation. It is not a development company. The Land Trust owns land fee simple or acquires conservation and agricultural easements to conserve land for future generations. Discussion of the Land Trust is provided in Section 2.1.8 of the Draft EIS.

101. *Page 19 of the EIS says that "The easement lands will remain in MPL ownership; however, they will be covenanted with restrictive easements enforceable by the Molokai Land Trust." If the Land Trust is controlled by the Ranch (e.g. there are ranch members on the Board), and the Land Trust is supposed to enforce the covenants signed by the Ranch regarding no future development on easements and other land, then this is a conflict of interest. How will this be prevented? In other words, the Land Trust is supposed to enforce the covenants regarding easements, but what if they don't (especially if there are MPL people on the board)? Who will enforce the enforcers?*

Response: There are no MPL employees with voting rights on the Land Trust Board; MPL holds an ex-officio (non-voting) position on the board to assist with information regarding its donated lands. To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding the Land Trust, Section 2.1.8 (Moloka'i Land Trust) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 2.1.8 (Moloka'i Land Trust)."

102. *The homeowners with the Land Trust will "jointly control the coastal Conservation District areas." (p.28) So that means the homeowners will have a lot of say regarding what can and can't go on in this area, right?*

Response: The Land Trust will have a substantial say for this area. There will also be a Land Trust representative on the board of the homeowners' association. This is necessary since the two organizations have equal interest in the rules and policies for the area.

103. *Will the restrictive easements be permanent? (e.g. unchangeable -- as in "permanent protective easements" which you call them in the EIS?) What guarantees are there that these cannot be changed?*

Response: As stated in response #99 above, the Land Trust's lands will have restrictions placed on them, and the Land Trust documents will prevent development.

104. *What guarantees are there the Ranch won't develop La'au, re-open the hotel, and then re-close the hotel soon after as "failing"? Or simply sell the hotel to someone else after all of this? What guarantees are there that the Ranch will actually use the La'au sales money to renovate the hotel (and actually use the whole estimated \$35 million to do so)? The Ranch could easily just take the La'au profit and run (i.e. close business and leave Molokai anyway). What is to prevent this?*

Response: MPL has made a commitment to the Moloka'i EC and community that it will renovate and re-open the Kaluako'i hotel. It is a key element of the Master Plan and a real and honest commitment made by MPL to the Community. MPL has estimated the cost of the renovations needed for re-opening at \$35 million dollars. This is an estimate and could go up or down depending on various economic factors.

105. *The EIS, on page 112, says that 14,390 acres will be put into easements for "agricultural use." Excuse me, but doesn't this mean that "agricultural houses" can be developed, even luxury ones like the Hokulia development on the Big Island and other islands? Ag-zoned, big house, no agriculture going on...*

Response: According to State and County zoning laws, farm dwellings that are accessory to agricultural use are allowed on agricultural land.

106. *The lands to be given to the Land Trust for protection are lands that already have protection from development based on what they are. For instance: Kawa taloa Bay, where the Ranch once wanted to put a resort, is already protected by virtue of being the most famous and largest burial grounds in all of the islands. Ka'ua is already protected by virtue of being the "birthplace of hula." Can you imagine the outcry if the ranch tried to develop such a place? Na Iwa is already protected by virtue of being the only traditional makahiki grounds that remain intact in the islands. Proposed development of a golf course was defeated here 20 years ago! Yes, these lands certainly do belong in a land trust. However, no developer would be able to touch these places due to their significance, so the "gift" of these lands to the Land Trust for "protection" is simply a smokescreen for the Ranch to get La'au. [§]Furthermore, the other lands to be "permanently" protected as part of the Land Trust will only be in exchange for La'au - through the destruction of La'au. Indeed, as a respected community member said recently: "It's not about what the Ranch is planning to give. It's about what they are taking away."*

Response: It is not true that the land being donated to the Moloka'i Land Trust is otherwise safe from development. Previous plans on lands to be donated to the Land Trust included:

- A 375 room hotel on Kāiaka Rock at the Kaluako'i Resort.
- A 150 unit condominium at Kawakū.
- The Highlands Golf Course and Club House at Nā iwa.

Moreover, these lands are vulnerable to use for commercial activities, such as for ecotourism, as they have been in the past. Under the existing Community Plan and County zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed at Lā'au Point. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two-acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development.

Light Pollution

107. *Will there be streetlights along the roads of the subdivision? If so, how will this contribute to light pollution? What regulations will there be on these streetlights - type, orientation, brightness, etc.?*
[§] *How will streetlights and lights from houses affect "Cultural Astronomy," (the ability to see the stars for the study of traditional non-instrument navigation and cultural time-keeping). This was not addressed in the Cultural Impact Assessment or the EIS.*

Response: As addressed in #92, street lighting standards will conform to County of Maui standards. Lā'au Point outdoor lights will include low-wattage, low-pressure sodium lamps that direct light downward, as recommended by the County's proposed Outdoor Lighting Standards, to curtail light pollution that interferes with astronomical observations and prevents turtles and seabirds from being disoriented during their migration.

Mitigation of Impacts versus "Offsetting" Impacts

108. *So many impacts, so much to be mitigated, and all of these impacts can so simply be avoided by not developing La'au. [§]The EIS states that "the La'au project should proceed because the negative impacts of the project will be offset by substantial positive impacts..." I disagree, and in fact think it is just the opposite: "The La'au project should NOT proceed because the positive impacts of the project will be offset by substantial negative impacts. [§]The EIS, on page 111, describes all the places that will be "protected" by the Land Trust. But La'au will be destroyed!! Land is 'ohana (family); sacrificing one member of the 'ohana for another is not acceptable. If you could simply understand this, you could understand why La'au is being opposed.*

Response: Comment noted. The option of not developing Lā'au was discussed in Section 6.1 of the Draft EIS. This was determined to not be a preferred alternative.

109. *Page 12 of the EIS lists the "Probable adverse environmental effects that cannot be avoided: changes to the character and visual appearance of the site, unquantifiable impacts to the overall spiritual quality of the area, changes to the experience of fishing (and just being) in an isolated area, differences in values and lifestyle of new residents, increased water and electrical power consumed, increased wastewater and solid waste. Indeed, these are some of the main reasons for the opposition to the Lā'au development. Since most are "unquantifiable," and things of feeling, perception and experience, they are difficult to adequately explain in words. How can words capture the feeling and experience of solitude? How can you explain the experience of "spiritual quality?"*

These unquantifiable, immeasurable, qualitative factors are the ones that matter most, and again, some of the main reasons for the opposition to this development. The developer tries to rationalize them on page 13 in the "Rational for Proceeding Nonwithstanding Unavoidable Effects" (1.7.9) by saying that the "negative impacts will be offset..." No way! You cannot "offset" non-quantifiable, qualitative effects with quantifiable ones. They don't cancel out. "Spiritual quality" is not "offset" by economic numbers, jobs, parks, or acreages in a Land Trust.

Response: The spiritual quality of Lā'au is acknowledged in the Cultural Impact Assessment (CIA), which was provided as Appendix F of the Draft EIS. With regard to the mitigation of impacts, first, the 51 acres of Lā'au Point proper which is owned by the federal government will not be disturbed. Second, the SAMP, which is part of the Final EIS, sets out a managed area which includes a conservation zone between the makai boundary of the residential lots and the shoreline and 2 parks at the culturally significant Kamāka ipō Gulch and Pu'u Hakina. Access will be limited to foot access in these areas, to limit the amount of traffic and disturbance. Third, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. Guidelines in the Master Land Use Plan are on pp. 116-117 of the CIA as follows:

Access and Use of Cultural Sites

- Sites can be accessed to fulfill traditional and customary Native Hawaiian responsibilities for cultural, religious, and subsistence purposes.
- Education and training activities can be organized through the kahu or the resource manager.
- In some cases access may be seasonal, such as during the non-hunting season, rainy/muddy season.
- Use of sites and related protocols will vary according to use of the particular site, including but not limited to:
 - Monitoring its condition - integrity, boundary and buffer, setting access routes, relation to overall complex or nearby sites and resources. Sites should be assessed once a year during the dry season.
 - Work to stabilize and restore sites. A plan for the stabilization and restoration of selected sites should be developed and approved by the State Historic Preservation Office.
 - Rededicated for specific spiritual and cultural purposes. Identify sites which have been in continuous use, those which have been rededicated and those which shall be rededicated.
 - Access and use of sites should follow protocols established by the kahu and resource manager.
 - Protocols should address manner of approach, entry, use, and exit of site; chants seeking entry and granting entry to sites; appropriate ho'okupu, chants and procedures to stabilize sites.
 - Kahu and stewardship resource persons should train stewards in mo'olelo, protocols and responsibilities of stewardship for each site.
 - There will be no commercial tours within the boundaries of Nā'iwa (Manawainui-Kahantū) and Ka'ania-Pu'u Nana (Kalaiapaho-Amikopala) wahi paha.

The Draft EIS refers to the provisions to protect the natural and cultural resources. In the planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The CIA refers to the measures outlined in the Master Plan to protect subsistence fishing on page 113 and referred to above.

The CIA provides details of the plan to protect subsistence fishing and gathering from page 118 through 121.

In addition, access will be managed to protect subsistence resources as discussed in section 5.2 - pp. 116 - 118 as outlined:

CC&Rs

- Design a measure to restrict access to foot only between Dixie Maru and Hale O Lono in order to conserve resources, with an acknowledgement of Native Hawaiian gathering rights as defined by law for subsistence purposes, in a designated subsistence management area.
- CC&Rs to reflect community-driven access plan. Walking access only from each end of the subdivision to restrict area for subsistence. No access from road above subdivision in order to restrict for subsistence gathering to ensure that resources are not depleted.
- No parking all through the roads, to prevent parking and access other than at each end which will enhance the subsistence nature of access.

110. And again, these are "probable adverse environmental effects that cannot be avoided (if you develop). If you don't develop there are no adverse effects. But if you do, then they cannot be avoided - cannot be mitigated. Thus, the development/EIS should not be approved. [¶]The problems are created because of the development! No development means no impacts, which means nothing to mitigate!

Response: We respectfully disagree. Section 6.1 of the Draft EIS discusses the "no action" alternative.

111. In most of the EIS the Ranch is not mitigating specific concerns and negative impacts at all. They are simply saying that the concerns negative impacts will be "offset" because of positive things and positive impacts in other areas (Land Trust/jobs/etc.). Indeed, page 58 of the EIS states that: "negative impacts would be offset with the gifting of important legacy lands to the community." [¶] The Ranch is basically saying: "There is a concern or negative impact; but, you can't do anything about it because it is unavoidable and inevitable; however, it will be "offset" by some positive impact in a completely different area." For example: Destruction of spiritual quality of area supposedly offset by land in Land Trust. Scenic views destroyed supposedly offset by jobs at hotel. Newcomers' clashing values supposedly offset by CDC endowment. Preferential access of homeowners supposedly offset by public access and subsistence access rights, etc. [¶]Mostly they simply gloss over (or ignore) the negative impacts by saying, there are so many positive impacts in other areas, so don't worry about that specific thing/concern/negative impact. That's like saying its okay they are developing Lā'au because they are not developing Mo'omomi. Or "I know you are starving, but hey, at least you have a roof over your head." (Actually they really do say this first one - Kawa'iaha in the Mo'omomi area will be protected from development if the Lā'au development is allowed to proceed.) [¶]For many things in the EIS the Ranch is not "mitigating impacts," they are offsetting them, which is unacceptable. The EIS is supposed to mitigate, not "trade." It's like if I say that I am concerned about sewage spills into Kailua Bay on the Island of O'ahu during heavy rains, they say that that is simply an "unavoidable impact" and an "inevitable consequence" of an old, overloaded system due to population growth; so nothing can be done about it; however, this "negative impact" will be "offset" by the planting of trees in downtown Honolulu, which will help beautify the city (and even add more oxygen to the air!) Okay...but what about the sewage! [¶]This is

what they do throughout the EIS – they rarely address the problem, concern, or impact directly or show how they will fix it. They just say that it will “offset” or “balance out” because of some positive thing that will occur in some other area. Do trees really balance out sewage? Or they say that some other group will eventually create a plan to deal with it at some unknown point in the future. They take a concern and say, “Yah, you’re right, that probably is going to happen, and there’s not much that can be done about it because it is simply an “inevitable consequence” of development/growth, so you’re just going to have to live with it; but hey, we’re doing all these other positive things in other areas that should make it easier for you to live with negative ones (you know, they will “offset.”) [J]This “offsetting” stuff is like a person saying, “I drink lots of beer, I smoke 3 packs a day, and I eat high-fat fast food and meats with a lot of nitrates, but that’s okay because these negative impacts to my body should be offset by the fact that I eat 5 fruits and vegetables a day and exercise three times a week.” Do you really think that this is possible? The negative impacts are much more lasting and have much deeper impacts than the positive ones. The positive ones may do a body good, but the negative ones harm a body deeply. It is better to just “do no harm” in the first place. So it is with EIS and the La’au development.

Response: Mitigation measures can be used to reduce negative impacts, not just eliminate them. See our response to #109 above, which discusses measures that mitigate various project impacts.

112. Page 17 of the Cultural Impact Assessment says the spiritual quality of La’au “cannot be quantified” yet by referring to this quality as, “spiritual resources,” or to qualitative views of nature as “scent-view resources,” (as is done in the EIS) the Ranch does indeed attempt to quantify them. The Ranch tries to make them into “things,” so that they can then be traded, or exchanged, or “offset,” by other things that are indeed things, (like jobs, or acres of land, or money). This is unacceptable. It is also unacceptable to say that because they are things of quality nothing can be done to mitigate their loss. [J]Another way to look at it is like this: The Ranch is using a form of distraction (“Hey, what’s that over there?”) Someone in the community will raise a concern like, “The spiritual quality of the area will be affected and the monk seal habitat will be impacted. And the Ranch will say something like, “Yah, we know and...Hey, what’s that over there? Look, it’s a Land Trust! It’s an expanded conservation district! It’s a park! It’s jobs! Look!” They never really address or fix the problem, they just kind of bluff their way through with this cunning sleight of hand. [J]This idea of “controlled development” is referred to frequently. You can’t control it, there are too many variables.

Response: See our response to #109 above, which discusses measures that mitigate various project impacts.

113. Consultant Kim Frankel said that “The discussion [in the EIS] should be even handed and not rely on self-serving statements.” In my opinion, the large majority of this EIS is full of self serving information. Any responses? He also said that an EIS is a “full disclosure document.” There is a lot of information and opinions that are buried within the Cultural Impact Assessment and the Social Impact Assessment, that were not included in the main text of the EIS. The Ranch selected certain parts of them and/or quoted partially or out of context to create summaries that are very “self-serving,” and hardly seem like full disclosure. Any response?

Response: We acknowledge your comment. While the EIS deals mainly with this project, its impacts, and related mitigation measures, we disagree with the implication that it is not a full disclosure document. Great care was taken to fully disclose all details and their impacts. The Draft EIS provided the full reports for the Cultural Impact Assessment and Social Impact Assessment as appendices, and as such are part of the EIS open to review, analysis, and comment.

114. Nature doesn't need our help. Nature needs us to get out of the way. Leave her alone. The Developer is making all kinds of plans to mitigate problems and negative impacts, but it is the Developer who has created the problems and impacts in the first place (through the development). The Developer thinks it is so clever for solving problems, when it would be wise to not create the problems in the first place!

Response: Comment noted.

Noise/Noise Pollution

115. Section 4.5, page 65 of the EIS states that the main current “noise” at La’au is “ambient noise from wind, birds, [and] the ocean” – i.e. the sounds of nature. Man, can you “hear” the silence? There is great value in this type of silence, and this type of natural “noise.” We need to protect it. [J]Note: “Noise” is usually defined as “unwanted sound.” For most people, the sounds of nature are not unwanted and are often relaxing; thus, they are not usually referred to as “noise.” Man-made sounds, on the other hand, like those described below, are often very intrusive, and thus, are indeed considered “noise.” [J]The EIS states that “Earthmoving equipment is expected to be the loudest equipment used during construction. However, given that the nearest residential property is more than a mile from the site, there will be no noise impact due to construction-generated noise in the vicinity.” What do you mean “no noise impact”? This thinking is way too narrow, as it is only focusing on how noise will affect residential properties/houses. It needs to be more holistic, and consider how the noise will affect the whole La’au area, and what else it might/will impact besides just houses and people. The “nearest residential property.” What about the effect of the noise on the solitude and spiritual quality of La’au – a place where, currently, you only hear wind, birds, and ocean? Such noise will greatly affect the nature of the place! What about its effect on monk seals, birds, turtles, and fish (who may be scared off out of reach of subsistence gatherers)? Please address each separately. This is not even addressed in the EIS, let alone mitigated. [J]As I understand from the EIS, infrastructure development is supposed to go on from 2007-2012, with construction from 2010-2023. This is at least 15 years! Do you really consider 15 years to be “short-term construction activity noise?” (page 65) Even if the heavy earthmoving equipment only goes on for say 5 years, there will be construction noise from hammers, nail guns, power tools, generators, trucks, etc. for 10 – 15 years! Please address this in the EIS. Compared to forever, it is short-term, but 15 years of construction noise and noises at La’au point will have a major impact on the area, the people who go there, and the animals. [J]Page 65 states that long-term impacts may be from “stationary mechanical equipment typical for residential housing,” but that noise will be mitigated because this “equipment must meet State DOH noise rules.” Yes, but this is a pristine area and supposedly “the most environmentally planned, designed and implemented large lot community in the State.” (p. 150, CIA; p. 23 EIS) The rules for noise and equipment must be stricter than the norm. [J]Noise pollution is real, and it is the cumulative effect of all the various kinds of man-made noise that will affect the quality and experience of La’au. Noise and sounds can travel great distances, especially over open areas. The EIS says that nearest residence is more than a mile from the project site. Yes, but the beach and shoreline is much less than a mile from the site. Indeed, for shoreline lots, the greatest distance apart they will be is 1000’ (most of the time much less -250’-500’). There will be ongoing construction noise for 15 years, less than 1000’ from the shoreline that will propagate in all directions, affecting fauna and destroying the wilderness nature and spiritual quality and solitude of the area. Please explain how that could not be so.

Response: The use of earth-moving equipment, the loudest, does not last during the entire construction phase, but only a very short time. “Short-term” is a standard notation for temporary impacts as opposed to permanent (or “operational”) impacts. As stated in Section 4.5 of the Draft EIS, all construction activities and equipment will comply with Department of Health noise regulations.

116. How will everyday noise from people, stereos, TVs, cars, cell phones, power tools, voices, etc. (see list below) affect the experience of solitude and the spiritual quality of the area? What about the peace and peacefulness of the area? How will this be mitigated? How can it be? Sound travels far! Setbacks do nothing for noise. You cannot contain this everyday man-made noise, these signs of "civilization." [¶]How will everyday residential noise such as from stereos, TVs, cars/trucks, power tools, etc. (see list below) affect monk seals, turtles and seabirds? How will this be mitigated? [¶]Here is quick list of some of the everyday noises and commotion that will be coming from every house, lot and/or roadway in the La'au area, and propagating in every direction throughout the area: cars, trucks (including garbage trucks and delivery vehicles), car alarms, TVs, stereos, generators, power tools, hand tools (hammers and nail guns), voices, yelling, singing, parties, emergency-vehicle sirens, etc... This noise will affect everything!

Response: We acknowledge your comments and respectfully disagree. The large building setback will provide a substantial buffer for noises from the residential area to the shoreline areas. All construction activities and equipment will comply with Department of Health noise regulations.

Social Impacts

117. According to pages 71-72 of the EIS, "a common problem [on Molokai is] the increasing antagonism associated with controversial matters...[and that] Molokai is becoming known for its controversy and confrontation and that this is not reflective of the 'Friendly Isle...[and also that] rudeness and name-calling...is becoming more common at public meetings." The Ranch takes no responsibility for this controversy that they have created through their proposed development! If people are getting rude and antagonism is increasing it is because people are frustrated, tired of fighting the Ranch, tired of having to testify all the time (saying the same thing over and over) and then being ignored! [¶]Page 73 states that "a significant impact on the social environment is the embodiment of negative expectations related to La'au Point residents and the public controversy. The heated nature of this controversy has a detrimental effect on the social environment. It caused social disharmony and stress." Again, the Ranch takes no responsibility for their primary role in creating this stress; rather they blame the people who are opposing the development and taking a stand for the Land - for La'au! It is ridiculous to act as if the opposition activists are doing anything unusual for Molokai by opposing this development. Indeed, the Social Impact Assessment states on page 61: "Activism is not new to Molokai. Proposed development projects are typically met with scrutiny and skepticism. Molokai residents are experienced in taking a stand and opposing efforts they disapprove. Recently, the proposal to allow cruise ships to land in Molokai was defeated, and the University of Hawaii withdrew its patent applications for genetically-modified taro when Molokai activists protested." So, you see, the proposed La'au development is what is causing any stress and disharmony, not the activists' opposition to it. The Ranch is dismissing these activists as burdensome flies, rather than as sincere community members whose sincere views should be sincerely considered and even heeded! [¶]OHA consultant/administrator, Clyde Namu'o, supports this point: "[Although] the OHA trustees have registered their support for the basis of this plan and project, OHA urges to applicant to listen to the elements of the Molokai community who oppose any development at La'au Point - as we, too, must listen, and we urge the applicant to meet the community's concern's with honest discourse." In other words, don't blame them for the situation, listen to them sincerely and respond honestly. Why is that so hard for MPL to do?

Response: We acknowledge your comments. See our responses to #46 and #56 regarding community involvement.

118. The EIS claims that it is "easier [for people] to address the [La'au] project than to address the Plan." Yes, that is because stopping the La'au development is more important than implementing the

Plan. That is why the focus is on La'au rather than the overall Plan. The Plan may be constructive and positive in some ways, but the La'au portion of it is negative and destructive. And the negative impacts of the Project will be greater than the positive impacts of the Plan. It is much more important to prevent the destruction and guaranteed negative impacts that to hope for possible positive impacts that may occur...if... Indeed, page 61 of the Social Impact Assessment and page 170 of the EIS state that, "[people] focus on La'au because to them it signifies a threat to the people, the environment, the Hawaiian culture, and Molokai Style." Exactly! [¶]The EIS, on page 170, says that: "While Plan opponents put up signs and organize protests. Plan proponents are attempting to find solutions to age-old issues by exploring mechanisms for coming up with a resource management program and establishing a Land Trust and a CDC." This tries to put the opposition in a bad light - as if they are doing is childish or bad. However, page 61 of the SIA reminds us that, "Activism is not new to Molokai," and the point is simply that, "while both sides are seeking to protect Molokai, their strategies have no commonality. There is little that can be done to bridge the gap." In reality, the only "age-old" problem there is, is developers trying to develop Molokai lands!...

Response: Your statements are taken out of context. The Social Impact Assessment (Appendix M of the Draft EIS) states on page 61 that both project proponents and opponents share the desire to protect Molokai from detrimental change. The difference is the choice of method on how to protect Molokai. You quoted a statement that refers to La'au Point opponents who see the project as the heart of the problem. In the previous paragraph, it states that La'au Point is part of a larger scenario with the Master Plan, and that La'au Point is part of the solution.

You correctly quoted findings of the SIA in Section 4.3.2 related to problems with the Master Plan as found in the primary research conducted in this study.

We also refer you to Section 4.3.1 of the SIA, which identifies positive characteristics of the Master Plan. People felt that the Master Plan 1) provides a reliable basis for community expectations, 2) allows for meaningful local control, 3) contains significant conservation and preservation measures, 4) allows for the protection and management of subsistence activities and 5) will lead to the reopening of the Kaluako'i Hotel and upgrade of the Golf Course.

119. Page 102 of the Cultural Impact Assessment states that "Development on one part of the island will affect the whole island." Won't this also be true of La'au, if not even more true, given the projected major negative impacts of the project?

Response: The EIS provides comprehensive discussion of the project's impacts. According to the 1970 census, Maunaloa was a bustling town of 872. At that time there was a full-service gas station, a large grocery store, a couple of restaurants, and a fully enrolled elementary school. The 2000 census reported the population of Maunaloa as 230. The gas station is only open for a few hours a day, the grocery store has a limited number of items and the only restaurant is part of the Molokai Ranch Lodge Hotel and the elementary school is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 70s and 80s, the overall population of West Molokai only increased by 53 from 2,515 in 1970 to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai or lengthening lines in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

In contrast to Maunaloa, the population of East Molokai nearly doubled from 2,574 in 1970 to 4,688 in 2000. Molokai families have been selling lands to persons from off-island, one-by-

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 43 of 67

one, lot-by-lot. The cumulative impact of this unmanaged growth is that the prices of land, houses and the property taxes have risen beyond the reach of many of the upcoming generation raised on the island. Some of the newcomers are only seasonal residents, and rent out their homes as vacation rentals when they are away, which has changed the close-knit quality of neighborhoods. The demographic changes already witnessed in East Moloka'i have made the longtime residents of Moloka'i fearful of the proposed development of 200 new lots potentially priced at \$1 million or higher. These fears provide fertile ground for opponents of the Master Land Use Plan and their campaign against development on the south and west shores of the island. It is especially appealing to the young generation who are too young to remember the level of the population, and related social and economic activity in Maunaloa town before the pineapple plantation closed.

120. Page 73 of the EIS says that "affluent people are already on Moloka'i and interacting with the community...Moloka'i style is still 'persistent' and 'resilient' in spite of the new residents." Perhaps, but the long-time community looks around in town and at meetings and says, "Who the hell are these people?" - and this in a place where "everyone knowing everyone" is valued (as stated in the EIS, p. 73). [¶] Page 74, sect. 4.8.3 of the EIS states that "interactions between the new Lā'au Point residents and existing residents can be positive if both parties are respectful and appreciate each other's right to enjoy Lā'au Point." Again, this is wishful thinking: "can be...if...". This is not mitigation.

Response: This is not wishful thinking. The successful integration and interaction between newcomers and existing residents is possible. It requires that both existing residents and newcomers recognize and respect the values of others. This is already occurring on Moloka'i, where the population growth over the last three decades, particularly in East Moloka'i, indicates in-migration of new residents. According to interviews, newcomers contribute to local efforts, and existing residents accept the newcomers into their homes, churches and schools. To expect that this type of interaction will not occur with Lā'au Point residents is based on stereotypes and underestimates the goodwill and aloha of the Moloka'i community.

121. It goes on to say that: "Expectation management will be incorporated in the resource management program orientation so that shoreline users are comfortable with the new development." "Expectation Management? What the heck is that? You mean to tell me that you are going to teach people to let go of their expectations and let go of their prejudices through some kind of class? How long will such a class be? Who will teach it? How can you guarantee it will work? If you can't guarantee it, how can it be used as a mitigation measure? What precedents can you cite - either locally or nationally - of "expectation management" actually working? [¶] Furthermore, it appears that this "expectation management" is focused more on the general public than the new homeowners and residents, e.g. to teach them to be "comfortable with the new development." Do you really think the community, which is opposed to the Lā'au development, will ever be "comfortable" with the development? If you can't make them comfortable with the idea of it now, what makes you think you can make people comfortable with it after it is built? And if you need to resort to this kind of propaganda to teach people to accept something, might it not be the right thing to do?

Response: See our response to #8 above regarding the education program.

122. The Cultural Impact Assessment (CIA) states on page 15: "Gathers of limu and pupu will very likely be met with kayakers in the water, people sunbathing on the beach, and pet animals running up and down the shoreline. If experiences elsewhere in Hawai'i hold true, it is not likely that owners of multi-million dollar beach houses will greet shoreline subsistence gatherers with open arms. It is

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 44 of 67

more probable that subsistence practitioners will be confronted by insensitive newcomers intolerable of extractive activities in what they will perceive to be their front yards." This contradicts the EIS and the Social Impact Assessment that basically expect and hope that everyone will just get along "if" they can all learn to get along. The proposed mitigation is "expectation management" classes and other classes to "teach" people how to respect one another and get along. Again, please give details about how and why this will work, and where something like this has actually worked in the past.

Response: The statement you cite in the Cultural Impact Assessment is a cultural respondent's shared mana'o. It is not an expected impact. The SAMP contains the Land Trust approved and accepted guidelines to prevent such impacts.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We can only assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

123. Page 12 of the EIS states that it is "expected that the community character of the region may change, as this is an inevitable consequence of growth." Yes, but growth is not inevitable, it is a choice, and that is the crux of the matter. None of these issues/problems/impacts are inevitable, they only become so due to the choice to develop Lā'au. [¶] If the Ranch doesn't keep its signed covenants, the community can sue; if the homeowners don't uphold their CC&Rs, the community can sue. If new Ranch owners come in and don't honor agreements, the only recourse is litigation. Sounds like you are setting up Moloka'i for years of litigation and lawsuits. Isn't the financial cost, time and energy that will be required to do this a major negative social impact to Moloka'i that may (or probably will) occur, and thus should be addressed in the EIS? If you don't think that it will occur, why are you so confident it won't?

Response: We disagree with your conclusion that the project will lead to years of litigation and lawsuits. Most people are law abiding citizens who respect and comply with the law and not willingly ignore it. Nonetheless, the specter of litigation acts as a deterrent to those who consider disregarding the CC&Rs, offering a very real consequence for this choice.

124. Millionaire houses at Lā'au point will raise property taxes across the island. This was a common community concern expressed at meetings. Please give evidence why this will not happen, if you think it won't. However, this has happened all across the State, why wouldn't it happen on Molokai as well?

Response: As discussed in Section 4.8.2 and See Appendix L of the Draft EIS, the Lā'au Point project is physically separated from the rest of Molokai by hundreds of acres of Ranch land, and will be a unique market unto itself. Secondary impacts, if any, might only be potentially possible among the makai portions of the Kaluako'i lots; however, even this inventory already has an established data set of its own comparable market activity. In addition, the 55,000+ acres of protective lands of the Land Trust and easements will isolate and distinguish Lā'au Point from the rest of Molokai. Changes in assessments are the result of comparable market transactions, fueled by new economic activity or a scarce amenity; Lā'au Point is not a comparable to the existing real estate.

125. The SIA and EIS say that the percentage of the total Molokai population for the Lā'au homeowners will only be from 2% - 6% (changing seasonally), and therefore this won't have a major impact on demographics, social character, or "Molokai Style." However, it is not the total percentage of the population that matters. What matters is how active that particular population is in the affairs of the community and local politics. Let's take an example: Let's say there are 5000 eligible voters for the EC elections. In the recent election, 1284 participated. If this number represents the politically active portion of the community, and we assume that the newcomers will all be active participants, then 200-400 of 1284 could amount to as much as 15% - 30% of the political voice! This type of percentage, combined with the perhaps 20% - 30% of the community that is currently pro-development, would have a very strong voice, perhaps even a majority. To say that this would not shift demographics or change the lifestyle of Molokai is ludicrous! It is a very real possibility. The EIS rationalizes why it won't happen; I rationalize that it can and will, and that it is simply not worth the risk!

Response: As discussed in Section 4.9.3 of the Draft EIS, the Lā'au Point project is not adding a new element (such as affluent people) to Molokai's social environment. East Molokai, in particular, has been experiencing affluent people buying homes. Interaction between existing residents and affluent newcomers is therefore already occurring. From accounts in interviews and meetings, Molokai Style is still persistent and resilient in spite of these new residents

The successful integration and interaction between newcomers and existing residents is possible. It requires that both existing residents and newcomers recognize and respect the values of others. This is already occurring on Molokai, where the population growth over the last three decades, particularly in East Molokai, indicates in-migration of new residents. According to interviews, newcomers contribute to local efforts, and existing residents accept the newcomers into their homes, churches and schools. To expect that this type of interaction will not occur with Lā'au Point residents is based on stereotypes and underestimates the goodwill and aloha of the Molokai community.

In addition, it is unlikely that part-time residents at Lā'au Point will be able to influence politics because part-time Hawai'i residents are not allowed to vote in local elections. It is against the law to be registered to vote in more than one jurisdiction.

126. Homeowners are to have classes "with a kapuna" to teach them to respect Molokai and subsistence rights, and to "malama 'āina." Will this kapuna be a Ranch kapuna? Shouldn't it be a cross-section of kapuna/people from Molokai, not just a Maunaloa ones? [§]How long will these classes be? Honestly do you really believe you can teach people to respect Molokai, respect the community, respect and honor subsistence rights, let go of their prejudices, and malama 'āina that easily? Be it 3 hours, 3 days, or 3 years? That's ludicrous! We can't even teach many of our own people to do so. (Locals litter!) C'mon...

Response: See our response to #8 regarding the education program. We hope that local residents will also be able to learn from the education program and mālama 'āina.

127. Imagine a subsistence fisherman, who walked in 3 miles from one of the access points near Hale o Lono to gather food for his family, encountering a homeowner, (who may have gone through CC&R "education"), along with his 10 guests, (who didn't), having a picnic on the beach - sun-tanning, kayaking, playing frisbee or smash-ball, and with a stereo blaring top-40 music, coolers of beer and soda, and a propane BBQ grilling store-bought steaks, fresh from the freezer. All of these people simply walked right down to the beach from the homeowner's property in a matter of minutes. Imagine how the fisherman (who has fished there all his life) will feel just seeing this scene. Now imagine if the picnickers (perhaps one of the boisterous guests) challenge the right of the fisherman to be there. "Hey! Hey Buddy! You can't fish here...This is our beach!" Can you imagine? This is a recipe for disaster and even violence.

Response: See our responses to #6 and #15 regarding shoreline access and social tensions.

128. Page 164, section 7.4 of the EIS, states that: While there may be differences in values and lifestyle of new residents, community cohesion is anticipated to grow over time if residents can come to appreciate the contributions of more recent residents, and [if] the latter have learned to work within the framework of the local community." May be differences? Try will! And these are some mighty big "ifs." Au "if" is not a mitigation plan. It is just wishful/hopeful thinking.

Response: Comment noted. The Social Impact Assessment was provided as Appendix M of the Draft EIS.

129. Page 164 goes on: "Lā'au Point residents will account for only 2% of the population forecasted for 2025. The likelihood of these residents having significant influence in changing Molokai's social and political structure is low." First, in responses to consultant Steve Morgan, and elsewhere in the EIS, the Ranch states that during "peak season, the on-site population will be 6%, with an average of 3%." But we have to remember that this is 2%-6% of the total population; thus it is a greater percentage of the adult (voting/voting) population, and an even larger percentage of the adult population who actively participates in politics and community affairs/decisions, and an even larger percentage of those who can afford to fly to different islands every week to lobby politicians, and an even larger percentage of those who are wealthy enough to be able to "buy" influence at the County, State, and Federal levels by giving money to various groups or political campaigns. Ten to fifteen percent would probably be more accurate, and this percentage could indeed have a significant influence on the Molokai social and political structure. [§]What is to prevent to new residents from wanting a marina at Hale o Lono, along with a shopping center or small mall? Or some big box stores like Costco or Home Depot? Or some fast food chains? Etc. Their material desires can change the nature of Molokai. Their wealth can buy influence to get them these things.

Response: It is unlikely that part-time residents at Lā'au Point will be able to influence politics because part-time Hawai'i residents are not allowed to vote in local elections. It is against the law to be registered to vote in more than one jurisdiction.

In addition, the installation of retail outlets such as Costco or Home Depot is controlled by the County Planning Department, the Planning Commission, and State agencies such as the Land Use Commission and State Office of Planning, which make decisions regarding new projects on a case-by-case basis. These agencies are instrumental in formulating policy which either encourages or discourages new development in various locales throughout the state. This factor has a much greater influence on the development of shopping centers than the voting percentages of malahinis.

130. Page 14 of the Cultural Impact Assessment says that community members at meetings expressed concerns that the proposed developments will: Change the demographics of Molokai forever. Contribute to the increase in land values a property taxes on Molokai. And that having 200 millionaires will: Change the makeup of the Molokai community. Lead to changes in the Hawaiian way of life. Cause Molokai to no longer be "The Last Hawaiian Island". Bring in residents unfamiliar with the culture and way of life on Molokai. Lead to cultural change. And that the community: Doesn't want Molokai to turn into Maui or O'ahu with a large population of off-island people. Expressed regret that if the development occurs, La'au will never be the same. These concerns have not been adequately addressed and/or mitigated in the EIS. Indeed some have simply been passed off as an "inevitable consequence" of development or a "probable adverse effect that cannot be avoided." Yet all of the above can be avoided if the development is not allowed to proceed.

Response: These issues are addressed in Sections 4.2 and 4.8 of the Draft EIS. Section 6.1 discusses the "no action" alternative.

The "no development alternative" is also discussed in Chapter 9.1 of the CIA (Appendix F of the Draft EIS), pp. 136 - 137. The CIA concludes that this alternative would lead to greater overall impacts on cultural sites; natural resources utilized for cultural, subsistence and spiritual purposes; water resources; and the overall Hawaiian way of life on Molokai. This scenario would result in uncontrolled growth and unmonitored utilization of lands and natural resources. It is the worst case scenario.

131. Page 14 of the CIA goes on to say that: "In balance, the Maunaloa kupuna shared that no matter what happens, the population will increase and the land will be limited. While Molokai has been preserved it is gradually being developed. They acknowledged that progress cannot be stopped but that it can be controlled. The Maunaloa kupuna felt that the overall community plan of which La'au is a part provides for the community to manage and monitor the proposed development." First, who are these "Maunaloa kupuna," who are constantly referred to in the CIA and the EIS? What gives them the right to say what should happen to La'au? La'au belongs to all of Molokai, not to Maunaloa (a Ranch town); thus all the kupuna of Molokai - from Halawa to Mana'e to Kualapa'u to Ho'olehua, should have as much a say in what happens to La'au and what is considered to be in "balance." The island is interconnected; what happens at one end affects the other (just consider fish or water, for example), which is why it is not solely for Maunaloa to decide. They can give their opinion/mana'o, but it is not their sole decision.

Response: See response to #46 and #56 regarding community involvement.

The Maunaloa kupuna attended the community meeting which was organized to identify potential cultural impacts of the proposed development. At one point in the meeting, younger members of the community asked the kupuna present to share their mana'o about what was being proposed. Dr. McGregor met with the kupuna together with the consultant who conducted the Social Impact Study. Dr. McGregor also interviewed several kupuna who used to live in Maunaloa and those who still live in Maunaloa.

In the conduct of a CIA it is essential to identify the 'ohana who have lived in an ahupua'a for several generations, as the primary subsistence practitioners who will be most directly impacted by any development. This was the methodology used in the development of this CIA.

It is also important to remember that the coastal areas proposed for development have been privately owned since 1875 when Charles Reed Bishop purchased the Kaluako'i Ahupua'a. Therefore, access to these coastal areas have been limited to the owners, cowboys and employees of Molokai Ranch and their 'ohana for generations. Thus, the primary subsistence practitioners who will be impacted by the proposed development are the cowboys and employees of Molokai Ranch (the owner is a global corporation rather than a kama'āina family).

It is also important to point out, as noted above, that according to the 1970 census, Maunaloa was a bustling town of 872. At that time there was a full-service gas station, a large grocery store, a couple of restaurants, and a fully enrolled elementary school. The 2000 census reported the population of Maunaloa as 230. The gas station is only open for a few hours a day, the grocery store has a limited number of items and the only restaurant is part of the Molokai Ranch Lodge Hotel and the elementary school is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 70's and 80's, the overall population of West Molokai only increased by 53 from 2,515 in 1970 to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai or lengthening lines in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

In contrast to Maunaloa, the population of East Molokai nearly doubled from 2,574 in 1970 to 4,688 in 2000. Moloka'i families have been selling lands to persons from off-island, one-by-one, lot-by-lot. The cumulative impact of this unmanaged growth is that the prices of land, houses and the property taxes have risen beyond the reach of many of the upcoming generation raised on the island. Some of the newcomers are only seasonal residents, and rent out their homes as vacation rentals when they are away, which has changed the close-knit quality of neighborhoods. The demographic changes already witnessed in East Molokai have made the longtime residents of Molokai fearful of the proposed development of 200 new lots potentially priced at \$1million or higher. These fears provide fertile ground for opponents of the Master Land Use Plan and their campaign against development on the south and west shores of the island. It is especially appealing to the young generation who are too young to remember the level of the population, and related social and economic activity in Maunaloa town before the pineapple plantation closed.

132. Second, population increase is not inevitable. We as human beings can (and should) decide how we are going to control our population, and deal with our growing and very real problem of overpopulation. We can choose to hide our heads in the sand or just say that it is "inevitable"; or we can choose to do something about it. It is a choice. At any rate, to say or think that we cannot control

our population, but that we can "control development," is illogical and foolish. It is wishful and unproven thinking. Moreover, if "no matter what happens, the population will increase and the land will be limited," that means that eventually you will need to build high-rises on Molokai, because with limited land and uncontrollable population, where are you going to put all the people?

Response: The Master Plan does address the control of population on Molokai in that it protects more than 85 percent of MPL's property from development.

Should the Master Plan fail, development could be uncontrolled and the community will have little chance of controlling the future population of the island.

One can look to the east end of Molokai where there is no Plan such as the Master Plan for Molokai Ranch and development is totally uncontrolled. More houses are being constructed in this area than was ever perceived.

133. Third, what do you mean, "they acknowledged that progress cannot be stopped but that it can be controlled." This is such a fatalistic attitude. "Progress," in this case, means "growth," as in development (i.e. more houses, cars, buildings, roads, jobs, people, etc.) But who are they acknowledging? Of course it can be stopped, for this type of progress is a choice. It is not like an approaching rain squall - that is something that cannot be stopped or controlled. That will come no matter what. But development? It is a choice; we choose! It is ridiculous to say that we can "control" progress but not stop it. Indeed, the idea of "control" presented throughout the EIS is for the community to "manage and monitor the proposed development." But "management" is not the same as "control," for development, once it is allowed to begin, ultimately controls itself. You can monitor, but your control only really comes through enforcement and litigation, rather than from not starting in the first place. All you can really do is look back later to see what went wrong!

Response: We acknowledge your comment and note that you are addressing a cultural respondents' shared mana'o from the Cultural Impact Assessment report. We cannot respond on their behalf to what you disagree with.

134. Note: "Progress" should mean becoming more enlightened and wise, but alas... Why in the world is the CIA citing unemployment statistics/rates, food-stamps/medical assistance, and poverty lines from 1993, 1990, and 1990 respectively? Surely there is much more recent data and statistics for a 2007 EIS study! Indeed, the latest unemployment rates for Hawaii and Molokai appeared in the Molokai Dispatch just last week.

Response: The cultural consultant felt that those issues were relevant to include in the assessment. These statistics were excerpted from the 1994 subsistence study and is provided as a context for the findings of the 1994 study. Current unemployment rates are addressed in the Social Impact Assessment (Appendix M of the Draft EIS).

135. Ridiculous. Of the Cultural Impact Assessment's 18 (only 18!) "informants": 8 have direct ties to, or work for, the Ranch, 4 were born/raised or live in Maunaloa, 4 are Espaniola family members, 2 were evicted from Maunaloa by the Ranch, and just 1 is a subsistence fisherman (1!). This is hardly a cross-section of the larger Molokai community. The Land Use Commission should redo interviews with a larger and broader cross section of members of the community (some who support the Plan, and some who oppose the development). Then the LUC and other agencies can draw their own conclusions, rather than just relying on the ones reached by the CIA from these 18 people.

Response: While a Cultural Impact Assessment (Appendix F of the Draft EIS) can include a sample survey of the larger community as part of the methodology, the key informant interview component needs to focus on those persons who are the primary cultural practitioners in the affected area. All of the informants, except one, had a long-term multi-generational connection to the project area. All of the informants have engaged in subsistence fishing and gathering in the project area.

The "old timers" who were interviewed are highly respected. They know the location of the sites, and the subsistence resources, unlike some of the younger generation.

136. What is to prevent every single one of the houses at La'au from being a vacation rental? With different people in them from day to day, and week to week? How would these renters be "educated" to respect the area and subsistence rights, and to malama 'aina? What is to prevent every single one of the houses at La'au from being a month-to-month or lease rental? How would these renters be "educated" to respect the area and subsistence rights, and to malama 'aina? No renters' names will be on the title, so how will they be educated? Who will verify that they are? What about regular caretakers or house-sitters for when the owners aren't there? How will they be educated? Is the Land Trust Steward or "security" going to go around and check who is residing at each house every day, and make sure they have had their education?

Response: As stated in Section 2.3.6 of the Draft EIS, vacation rentals are prohibited at La'au Point.

137. What will happen to guests of landowners who are on the beach, but have not yet had education classes? What will happen to the landowner if he or his guests are there without their education? What will happen to the general public if they are there without it? Will there be consequences or fines? What will these be? Is everyone going to have a permit, and/or be subject to searches and interrogation? They need to be part of the EIS so that the public can evaluate them.

Response: Homeowners are responsible for their guests and their guests' actions.

138. Rentals will affect demographics and population. If vacation rentals, you will have a continuous amount of 200-400 people. Moreover, all the people (though changing weekly) will always be in party/vacation mode (meaning making party noises). They won't be residents, so they won't affect politics. Long-term renters, however, will be residents, and if all 200 houses are always full then there will always be 200-400 people there. [W]here and how do the occupancy forecasts and population estimates in the EIS take into account the possibility of renters (both vacation rentals and long-term)? [W]ill the number of vacation rentals or long-term rentals be limited, who will get first dibs? First come, first serve? [W]hat county laws regulate vacation rentals, rentals, and renters on Molokai? Will the CC&Rs regulate them? How will the CC&Rs, access, and education apply to renters?

Response: As stated in Section 2.3.6 of the Draft EIS, vacation rentals are prohibited at La'au Point.

Representation of Community/EC

139. Section vii of the EIS refers to the "partnership of the Enterprise Community and MPL to create a visionary plan for Molokai Ranch's 60,000+ acres." Well, the Ranch and the EC might have had authority to create the Plan, but what gives them the authority to approve it - especially the La'au Point Development? That should be up to the community through a referendum (which the EC has denied the community a chance to have.) Even Mr. Peter Nicholas, MPL CEO, has publicly stated

that it would be "the community" that would decide about La'au, not the EC. (This statement was recorded on video.) [¶] Page 18 of the EIS states that "The Plan is an agreement between the Molokai Enterprise Community (EC) and MPL. The process of developing the plan was an EC sponsored process," (between 9/2003 and 9/2005) in which anyone in the community who wanted to participate could do so, and that ended up including over 1000 community participants. There were 5 committees: Environment, Cultural, Economics, Tourism, Recreation and a "Land Use Committee" (formed from representatives from the other 5 committees). This Land Use Committee eventually voted to adopt the Plan as did the EC Board. This was indeed a monumental and commendable effort, and a unique and good process. However, there is one part of the process that has not yet been carried out: the public has never had a chance to vote on the Plan directly in a community referendum; this despite overwhelming community opposition and testimony against the La'au development. (Note: The testimony is generally not against the Plan per se; it is only against the Plan as long as it includes La'au). This failure to allow the public a chance to directly vote on the issue is completely unfair and not pono, especially in an issue and development of this magnitude, and especially when the EC claims to "represent the community." Why then had the EC denied the public community an official referendum? Not all community members will participate in meetings and committees; and for many, the main opportunity they have to participate in the process is through voting. The LUC had approved it; the EC has approved it. Fine. Now give the larger community a chance to make their voices heard. MPL, the EC, and or the State Land Use Commission should sponsor an official community referendum regarding the La'au development - yes or no - and settle once and for all what it is the community really wants!

Response: We note that the Master Plan is a land use plan for all of MPL's properties, not publicly-owned land. We acknowledge your request for a vote; however, it is not a legal requirement. This Master Plan and project are unprecedented for any large landowner in Hawai'i. Please also see responses to #46 and #56 above regarding community involvement.

MPL and the EC have not made any statements that they have the "authority to approve" the Master Plan, hence, the current application before the State Land Use Commission, the Molokai Planning Commission, and the Maui County.

140. The Social Impact Assessment, page 62, states that "many will not attend public meetings because they dislike the antagonism and conflict." All the more reason to allow the public a chance to vote on the issue. Allow them a chance to participate in a democratic way that they can feel comfortable doing. [¶] The recent EC election on January 31 ousted 2 pro-La'au development board members (including Collette Machado) and replaced them with candidates who ran on a clear "No to La'au" platform. This election, which saw the largest voter turnout in EC history (1284 voters), was dubbed by one of the ousted board members (prior to the election) as a "referendum on La'au." The community has spoken, and they have said, "No to La'au." Thus, the EC can no longer claim to "represent the community," which makes the partnership and agreement between MPL and the EC essentially null and void. [¶] On 2/15/07, the EC was to have its first meeting since the recent election cited above. However, the 5 board members who support the La'au development did not even show up! Their no-show destroyed quorum and thus the meeting had to be cancelled. Forty (40) community members had shown up to give testimony to urge the EC board to rescind its support of the La'au development, and it was possible that this measure could have passed with the newly elected board members. Obviously, with this being the only EC meeting before EIS comments were due, the pro-La'au board members could not risk such a vote, so they did not show up. These kinds of tactics border on unethical, and the EC has done many questionable actions recently, such as destroying quorum at other meetings to prevent votes, or not restoring the EC water moratorium project (which could have stopped the La'au development), and not allowing the community a chance to vote on the La'au issue. Do these 5 board members plan to not show up for all the EC

meetings this year, so that nothing can be done through the EC to prevent the La'au development? I urge the Land Use Commission to watch the EC closely during this coming year, and to thoroughly investigate the actions of the EC over the past two years and recent weeks/months to determine if there have been ethical violations, especially since the EC claims to "represent the community."

Response: We disagree with your conclusion that there is a direct correlation between the election results and the project. The EC Board election was not a formal mandate for the Lā'au Point project. The EC also has many projects that should not be ignored by your conclusion.

141. The whole point of EC project #47 (community-based compatible development) and of something like a Land Trust (EC project #1) is to avoid development(s) like La'au! [¶] Page 22 of the CIA states that the Plan is "not a perfect plan." So why should it be approved? [¶] It goes on to say that it "represents a historic good faith effort on the part of MPL." So? The Plan should be judged on its own merits, and on the fact that it includes the development of La'au, which they community does not want. It should not be judged on the intention with which it was created. Indeed, please prove to us that this "historic good faith" is not simply a "Trojan Horse" to allow the development of La'au? The Ranch couldn't develop La'au with a direct approach due to community opposition, so they came in the back door as a "friend" - offering carrots and bribes. Please prove that this is not so. [¶] Why do so many people on Molokai (so many people of the Molokai Community) oppose the development of La'au? There is a ton of quotes from interviewed community members in the Social Impact Assessment and the Cultural Impact Assessment. Please refer to those for some reasons. Moreover, community testimony at public meetings over the past months and years has been videoed and can be viewed. [¶] More form page 22 of the CIA: "This monumental effort [creating the Plan] deserves serious reflection, deliberation, and endorsement." Reflection and deliberation, yes. Automatic endorsement, no. It does not deserve endorsement based on the intention or the amount of effort, but only if it is a good and pono plan; and after my own reflection and deliberation, it is clear that it is not!

Response: Three months after he arrived, the current CEO of MPL, Peter Nicholas, went to a Hawaiian Homes Commission hearing in Ho'olehua regarding the Ranch's proposed water pipeline to Kaluako'i. In that hearing he realized how much the Molokai community mistrusted and even hated the Ranch. The Ranch never consulted with the community about its plans. Instead, it dealt directly with the Maui County Council. The Ranch had isolated itself from the community and this had bred suspicion and hostility toward any of its projects. Mr. Nicholas resolved to reach out to the community to engage in jointly developing a 100-year vision and land use plan for MPL's 65,000 acres.

It was not easy to convince community leaders to sit at the same table with the Ranch. Wounds were deep after thirty years of fighting against the Ranch and its various extravagant development schemes which planned to extract millions of gallons of the island's limited water resource. Through protracted grassroots battles and costly litigation, the community had fought the Ranch at every step. The community had successfully stopped:

- A 375 room hotel on Kaiaka Rock at the Kaluako'i Resort.
- A 150 unit condominium at Kawākiū.
- The Highlands Golf Course and Club House at Nā'iwa.
- The Waioala Well and Pipeline.

Many veterans of these land and water battles finally decided to participate in the planning process. However, at the point at which the Lā'au development and water plan were included in

the Master Land Use Plan, certain members distanced themselves from the process and emerged as leaders of the opposition.

The majority of the core planning group persisted in their support for the overall Master Plan as a settlement of a thirty-year "war." They view the Master Plan as a reasonable and balanced approach that empowers the community to manage premier Native Hawaiian legacy lands; control population growth; curb land speculation; and create economic opportunities. They firmly trust that they will be able to closely monitor and manage the proposed development at Lā'au which they believe will be the last major development on ranch lands - forever. They are committed to protecting the cultural sites as well as the natural resources needed for subsistence hunting and fishing. Opponents refuse to trust Molokai Ranch and will not compromise.

142. How is this "one last development"? Where are the absolute guarantees of that? What is to prevent the Ranch from developing the rest of their lands, or expanding Lā'au? What is to prevent the Ranch from building their 200 lots at Lā'au and then building 1000 units at Papohaku later? [I] mean, what if a new company buys the Ranch and says: 'Hey, we didn't sign no agreement with the EC, and the EC is now defunct anyway. We are applying to expand Lā'au to 400 lots - rezone - as well as subdivide and develop all remaining Ranch lands.' What is preventing this?

Response: Conservation and Agricultural easements, which are perpetual, will be placed on MPL lands to ensure adherence. Lā'au project lands will be held by the homeowners' association and subject to the limitations on the CC&Rs.

143. The Plan was created "under the auspices of Enterprise Community Plan #47...community-based compatible development." But can you not see, that one of the reasons why this EIS is nearly porous (without substance) is because no matter how much you try to fit community, Lā'au, and development together through explanations and rationalizations, it simply doesn't work. There are always gaps for the simple reason that a subsistence fishing zone and a housing developmental are simply not compatible. A Place of deep spiritual mana (power) and a luxury residential subdivision are simply not compatible. They are at opposite ends of the spectrum. It is real estate versus aloha 'aina (love of the land). It is viewing land as a commodity versus viewing land as 'ohana (family). It is a developer's perspective versus a subsistence gatherer's perspective. It is a western point of view versus an indigenous peoples' point of view. It is Molokai Ranch's desire (along with their partner's - the Enterprise Community) but it is not the desire of the community. Trying to blend them and make them fit together is sheer folly and a waste of effort, for they are not compatible.

Response: Comment noted.

144. Page 58 of the EIS states that "many longtime adversaries of Molokai Ranch, who were involved in developing the Plan, were willing to allow the project to proceed under the guidelines and conditions agreed to over the course of a two-year planning process." Yes, but many more adversaries were not. Just because some former adversaries managed to get into positions of power on either the EC board or the Land Use Committee, and then vote to support the Plan, does not mean that the larger community supports it; indeed, the larger community does not. It is unethical and ridiculous that the same people who came up with the Plan (and a small group of these people at that) should be the same people to approve the Plan. That should be for the larger community to do in a referendum vote. The community has never had the chance to vote on the Plan. The community has never had the chance to say Yes or No to Lā'au in an official referendum. The community should decide, just as Mr. Peter Nicholas promised the community they would! Not a few representatives of the community, not the EC, the community!

Response: The election held on January 31, 2007 was for two board members the Moloka'i Enterprise Community (EC) Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed development at Lā'au Point is not a project of the EC.

The EC facilitated the Master Plan community-based planning process (as discussed in Section 2.1.6 of the Draft EIS), and later voted to support the Master Plan based on the strong recommendation from the Land Use Committee. The EC has also stated that the Master Plan represents the fulfillment at the highest levels of the key principles of the USDA's Empowerment Zone/ Enterprise Community program, which are: 1) Economic Opportunity; 2) Sustainable Community Development; 3) Community-based Partnerships; and 4) Strategic Vision for Change.

A total of 1,284 voters turned out for the January 31, 2007 EC election, casting a total of 2,541 votes (2 votes per person minus 27 abstentions and voided ballots). This turnout, while record-setting for EC elections, represents only 25.6% of Moloka'i residents over 18 (According to the 2000 Census, the Moloka'i population over 18 years of age is 5,015). Bridget Mowat and Leila Stone, who won the two seats and campaigned on an "anti-Lā'au" platform, received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. A total of 841.5 voters represent only 16.8% of Moloka'i's eligible voting age population.

To assume that an election for Board Directors of a private nonprofit corporation is equivalent to a referendum on the Master Plan or a mandate for the Lā'au Point project, no matter what the candidates' platforms, is not only a misrepresentation of fact on many levels, but could also be seen as disenfranchising the other 3,731 eligible Moloka'i residents (74.4%) who did not turn out to vote.

A community vote on the Master Plan never occurred; there is no provision for one. Regulatory organizations are charged with making the decisions on entitlement issues such as with Lā'au Point. The EC election was for the Board of Directors that has no such regulatory power.

145. OHA consultant/administrator, Clyde Namu'o, states in his comments: "[Although] the OHA trustees have registered their support for the basis of this plan and project, OHA still urges the applicant to thoroughly study and research [the project area and impacts, and] also urges to applicant to listen to the elements of the Molokai community who oppose any development at Lā'au Point - as we, too, must listen, and we urge the applicant to meet the community's concerns with honest discourse." Some honest discourse would be nice, instead of self-serving statements and propaganda in the EIS. [I] This development is not in line with the EC/MPL Plan's vision statement. They don't mesh; they are incompatible! One example from the statement is: A Molokai that "leaves for its children a visible legacy." Yes, a scar upon the sacred land of Lā'au! Another is: "We...choose not to be strangers in our own land." By inviting 200 off-island millionaires to come live on Molokai - on that sacred land. This is not pono.

Response: Comment noted.

146. Section 2.2 of the EIS states that "Lā'au has been the most controversial aspect of the adopted plan, with residents form all aspects of community life concerned about the threats posed from newcomers, the potentials for desecration of cultural sites and the pristine nature of the area, and the potential threat to subsistence gathering...Therefore, for many members of the Plan's Land Use Committee,

the decision to support the La'au development was an extremely difficult one." (Note: the Plan was adopted only by the Land Use Committee and the EC, not by the community at large, who is against it.) Why is Molokai Ranch putting the community in such a painful position of either having to support a development almost no one wants, or having to fight against both the Ranch and these other community members to Save La'au? Why is Molokai Ranch doing this? If the Ranch truly cared, it would not! There are alternatives!

Response: Section 6.0 of the Draft EIS provides discussion of various alternatives examined.

147. *The EIS goes on to say that for some of these people, "the difficulty has been lessened" by the putting 55,000 acres into some form of open space conservations or agricultural resource protections; the CC&Rs, and the rezoning from Agricultural to Rural. (p. 23) Yes, but this is a small number of people. What about the community? The Land Use Committee and the EC board, who "adopted" the Plan is not the community. This committee and board is only about 30 people - out of nearly 5000 voting-eligible Molokai residents, and out of the 1000 or so who actively participated in the two-year process to create the Plan. At the least, the 1000 people who did participate in the process should all be given a chance to vote on the Plan. But even this is not good enough, because even they are not the community. The entire community needs a chance to say "yes or no" to the Plan, which includes saying "yes or no" to the La'au development as part of that plan. [¶] Note: the recent EC election in which 1284 people voted and elected "Save La'au" candidates, while ousting pro-Plan, pro-La'au candidates by a wide margin, clearly shows that the community against the Plan as long as it includes La'au, and are against the development of La'au! When will the Ranch acknowledge this? If they cannot, when will the Ranch support a community referendum on the matter?*

Response: See our response to #144 regarding the EC election.

148. *Consultant DeGray Vanderbilt asked in his comments: "What mandate did Ke Aupuni Lokahi/EC have to be the community's representative?" The Ranch replied: "MPL cannot answer on behalf of Ke Aupuni Lokahi." Cannot answer? MPL is a "partner" with the Ke Aupuni Lokahi/EC, so, may I respectfully suggest that MPL go and ask KAL/EC this question so that MPL can include the answer in the EIS. Indeed, it is an important question since the EC does claim to be the "representative of the community," and MPL claims community support of the Plan through the EC!*

Response: The community does vote for the EC boards members.

149. *The CIA states that "Everyone interviewed and those who came to meetings had reservations about the proposed development. No one was an enthusiastic advocate, many were reluctant supporters, and those most vocal were opposed to the development." Not enthusiastic; reluctant; opposed. This is hardly "broad-based community support." Why then is the Ranch doing this to Molokai? Why is the Ranch trying to ram-rod this down the community's throat? When you try to ram-rod something, all you do is cause the people to choke!*

Response: We acknowledge your comment. Nobody wants the Lā'au Point development in isolation. However, it is one component of a wider Master Plan. Those who support the Master Plan believe Lā'au Point is necessary for the economic viability of the entire Master Plan.

The "no action" alternative (discussed in Section 6.1 of the Draft EIS), which opponents advocate, would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime

staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "no action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for Molokai'.

150. *I'd like to remind the Ranch, the EC, the Land Use Commission (and other agencies involved in the permit/entitlement process), that the amount of time the community and the Ranch spent during the past two years to develop the Plan, and/or the amount of money the developer (the applicant) has spent in planning and preparing the EIS, is not an acceptable or lawful reason to approve the development (i.e. any zoning changes, permit requests, water-use plans, etc.) The EIS must be judged on its own merits, with serious weight given to the public comments and testimony given. Time and money spent are not reasons for approval. [¶] Page 23 of the CIA states that the Plan (with its promises of Land Trust donations) is "clearly in the tradition of "Aloha Mai, Aloha Aka. - When aloha is given, aloha should be returned," and that "such an outstanding and magnanimous gesture deserves recognition as a model for offshore owners of Hawaiian lands on Molokai." First, there is no proper phrase is 'Aloha Aka, Aloha Mai - When love is given, love is returned.' There is no "should" about it. If the love given is genuine, then it is simply and naturally returned. Could it be that one reason there is so much opposition to the La'au development is because the Ranch doesn't really understand this concept? Indeed, they have it back-wards, or standing on its head. (Mai always follows Aka; the other way only creates confusion.) The Ranch is saying, 'We are giving to you, and thus, because you are getting from us, you should give to us in return.' Sorry, it doesn't work that way. You don't give and then demand something in return. You don't give in order to get something else. You just give. If it is genuine it will come back to you. If not, it won't. Using the Land Trust and the hotel as a "carrot" or "ransom" or "trade" or "Trojan Horse," in order to get La'au is not at all in the tradition of Aloha Aka, Aloha Mai. So instead, how about just giving the community La'au? Withdraw the proposal for the development and put all of La'au into a community-based or public land trust. This would be true Aloha Aka, and I think you might be surprised at what would be returned to you (Aloha Mai) with such a truly "magnanimous gesture" (including money and support to renovate the hotel and sustain the Ranch.). The ancient kaupuna were wise - why don't you trust them and give it a try?*

Response: The source of the quote in the Cultural Impact Assessment (Appendix F of the Draft EIS) is Mary Kawena Pukui's 'Olelo No'eau: Hawaiian Proverbs and Poetical Sayings, #113, p. 15 and it states: "Aloha mai no, aloha aku; o ka hulu ka mea e ola 'ole ai. When love is given, love should be returned; anger is the thing that gives no life."

You are correct that time and money spent on the Master Plan is not a sufficient reason to approve the development. However, the time (and related expenditure) spent on involving the community in the master planning and the disclosure through the EIS is a necessary prerequisite

to informed decision-making. We still believe that the project should be approved as the most feasible alternative that fulfills Master Plan objectives.

Site Protection

151. *The EIS plans on "preserving known archaeological sites." All of La'au is a cultural site!*

Response: Native Hawaiian participants named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Molokai, Ka Lae O Ka Lā'au is within the 51 acres owned by the federal government which will not be developed at all. It is bounded by Keawakalani on the southeast and Kamāka ipō on the northwest. The development is proposed from Keawakalani east to Pu'u Hakina and from Kamāka ipō north to Kaupoa.

Shoreline Setbacks

152. *As much as 1000' of setback in some places seems like a lot, especially when compared to setbacks in other areas of the islands, but it still isn't very much at all. Moreover, this will only be for some of the houses; most of the setbacks will be much less than 1000'. When it come to protecting the solitude of the area, 250' - 500' is very close.*

Response: A majority of the lots are set back more than 500 feet. Protecting the solitude is a concern and one of the reasons why the shoreline will not be accessible via vehicles.

Spiritual Quality of La'au Area

153. *Page 165, sect 7.4 states that "The experience of fishing in an isolated, pristine, and spiritual area (La'au Point) will be affected by the La'au Point project. To mitigate impacts, the Plan seeks to establish a subsistence fishing zone, which will require special legislation to be enacted by the State Legislature...[and a] shoreline management plan will be developed and adopted to control access (through legal and enforceable means)." It is not only about fishing though, it is about the experience of being in such an area. Indeed, it is precisely because it is so isolated, pristine, wild, open, and natural, that makes it so very spiritual! Making a subsistence fishing zone really does nothing to keep it "isolated, pristine, and spiritual," especially with a luxury housing development, and especially when the plan only controls access of the public, and does nothing to address the concerns of homeowners' insensitivity and intolerance of subsistence activity in their backyards...*

Response: See response to #109 regarding impact to the spiritual quality of Lā'au as acknowledged in the Cultural Impact Assessment.

154. *The EIS says the spiritual quality of La'au "cannot be quantified," yet by referring to this quality as "spiritual resources," or to qualitative views of nature as "scenic-view resources," the Ranch does indeed attempt to quantify them. They try to make them into "things," so that they can then be traded, or exchanged, or "offset," by other things that are indeed things, (like jobs, or acres of land, or money). This is unacceptable. It is also unacceptable to say that because they are things of quality nothing can be done to mitigate their loss...*

Response: This was discussed in Section 4.2 of the Draft EIS. Also see response to #109 above.

155. *Page 78 (sect 3.6.1) of the Cultural Impact Assessment states that, "La'au Point and the western and southern coastlines of Molokai which converge there have always been remote and isolated." This is a major key point. If the place has always been remote and isolated, that is its main, unique and natural quality. If you put in roads and houses you utterly destroy its nature - its remoteness and its isolation - forever! How can you do such a thing? For there is nothing that can mitigate this except for not building!...*

Response: The "no action" alternative was discussed in Section 6.1 of the Draft EIS. The "no action" alternative which opponents advocate would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "no action" alternative would reduce the immediate demand on water resources and leave Lā'au undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'au but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Land Use Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for the west and south shores adjacent to Lā'au Point.

156. *Page 103 of the CIA shared community opinion that "[The development] will greatly diminish, if not eliminate altogether the solitude currently offered by this isolated corner of the island." Solitude and isolation have value - they are an asset to public life and health (for maintaining well-being) and since they are rarer and rarer, they should be protected above all else, for they cannot be replaced or restored once altered. There are plenty of other places (almost every place else) that are not isolated and remote, and that are developed. Why don't we leave this one alone? [¶] Page 109 of the CIA - community mana'o - "Future generations should be able to be in an environment where its just them and mother nature. They should know what it feels like." How can you destroy this possibility? Don't you want future generations to have this opportunity?...*

Response: The statement of need for the project is discussed in Section 2.2 of the Draft EIS.

157. *Consultant David Kimo Frankel, in his comments, talked about "the high value that many people place on being able to go somewhere with wilderness qualities (i.e. few - if any - people, no man-made structures, etc.) People who walk along the shoreline, travel by boat by it, or exercise traditional Native Hawaiian practices will all experience a loss in this sense of wilderness." Loss of wilderness, the sense of wilderness, the experience of wilderness. This is a huge impact! The only way to mitigate this is to not develop. But all the Ranch does is talk about buffers and conservation zones and access and management plans and uniqueness of coast and rules and protocol, etc. What about the wilderness? It will be gone! (That place with few - if any - people, no man-made structures, etc.) The best way to protect wilderness is to simply leave it alone!*

Response: See response to #155 above regarding the "no action" alternative.

158. *Page 124, Section 5.6 of the Cultural Impact Assessment admits: "Perhaps there is no way to mitigate the impact upon solitude that can no be enjoyed at La'au. It offers the opportunity to experience ho'ailona spiritual signs and the overall mana of La'au as a waihi kapu." Please re-read that. There is "no way to mitigate the impact." Therefore, this EIS/development cannot be approved. [¶] And what is the Developers proposed mitigation to this destruction of solitude? "Limiting access*

to a walking trail behind kiawe with demarcation lines between private lots and public access areas." Uh...there will be a fence or line! You will be able to see houses! You will be able to hear people, stereos, TVs, cars, cell phones, voices! There will be picnickers on the beach with kayaks, BBQs, stereos, phones: sun-tanning, and playing Frisbee and smashball! This is not "solitude". At best, you are trying to create an illusion of solitude by hiding the trail, but the reality is that you cannot hide the houses, the noise, or the people! The solitude will be utterly destroyed.

Response: Section 7.4.1 of the Draft EIS discusses the rationale for proceeding with the project notwithstanding unavoidable effects.

159. The EIS states on page 65 that "Earthmoving equipment is expected to be the loudest equipment used during construction." What about the effect of the noise on the solitude and spiritual quality of La'au - a place where, currently, you only hear wind, birds, and ocean? Such noise will greatly affect the nature of the place! [9]How will everyday noise from people, stereos, TVs, cars, cell phones, power tools, voices, etc. effect the experience of solitude and the spiritual quality of the area? [9]Noise pollution is real, and it is the cumulative effect of all the various kinds of man-made noise that will affect the quality and experience of La'au. Noise and sounds can travel great distances, especially over open areas. The EIS says that nearest residence is more than a mile from the project site. Yes, but the beach and shoreline is much less than a mile from the site. Indeed, for shoreline lots, the greatest distance apart they will be is 1000' (most of the time much less -250'. 500'). There will be ongoing construction noise for 15 years, less than 1000' from the shoreline that will propagate in all directions, affecting fauna and destroying the wilderness nature and spiritual quality and solitude of the area. Please explain how that could not be so.

Response: See responses to #115 and #116 regarding noise impacts.

160. Consultant Steve Morgan made a point in his comments that I would like to reiterate regarding the Ranch's statement that "MPL is committed to preserving archaeological and cultural sites which are sacred." Mr. Morgan said: "The entire [La'au] area is considered sacred in Hawaiian culture. If MPL were abiding by these concepts then this project would not be proceeding. [9]Page 164 of the EIS says that "The La'au Point project will have an impact on the solitude and spiritual resources now existing." Its proposal to mitigate this is by "reinforcing the importance of the homeowners and Molokai community working together to educate each other about the area's uniqueness (i.e. 'Common everybody, let's all get along'), and "calls upon the leadership of the Molokai Land Trust to bring various sectors of the community together in a community relationship to ensure that the spiritual, physical, and natural resources are properly cared for." Again, this is the applicant passing the buck to the Land Trust to make sure that everyone "works together" in harmony, gets along, and protects the area." This is wishful thinking, not mitigation. Moreover, if the EC cannot "bring the community together" right now about this issue, how will the Land Trust or anyone else be able to do so later? Isn't that a bit far-fetched?

Response: Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lae O Ka La'au is within the 51 acres owned by the federal government which will not be developed at all. (Appendix F, p. 79) It is bounded by Keawakalani on the southeast and Kamaka'ipō on the northwest. The development is proposed from Keawakalani east to Pu'u Hakina and from Kamaka'ipō north to Kaupoa. According to the archaeological surveys and ethnographic documents there were settlement clusters around protected bays along these coasts, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Land Use Plan identified Kamaka'ipō as an important cultural and spiritual place. Molokai Ranch proposes to rezone these areas from Agriculture to Conservation in order to protect the significant settlement areas and clusters along

the west and south shores adjacent to La'au Point, notably at Kamaka'ipō, Kapukuwahine and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

We strongly disagree with your comment regarding the Land Trust's leadership as "wishful thinking" or "far-fetched."

161. Page 164 also says that "the location of the house lots...should serve to create a sense of respect for the area." Uh...how?

Response: The expansion of the Conservation District and large shoreline setback respect the natural resources of the area.

162. Page 54 of the SIA states that "The Project requires significant change in an area that is virtually untouched." What right do we have to touch such an area? And even if we do have a right, why should we?

Response: The statement of need for the project is discussed in Section 2.2 of the Draft EIS.

163. In reading the EIS, I was shocked by the reference to the La'au area as "vacant" land. I know that this is just a real estate term showing that the land is "unoccupied"; however, the fact that it is referred to do this way sheds light on why the Ranch, and developers in general, cannot seem to grasp the idea and truth of "aloha 'aina" (love of the land), and thus, cannot understand where the La'au opposition is coming from. Indeed, it illuminates that fundamental difference between viewing land as "real estate" - as a commodity to be bought and sold (as a source of money) - and viewing land as a member of the 'ohana (family) - one to be cared for (as a source of life). This is the real "vacant" means "empty or void," and to a developer this emptiness is simply a bunch of wasted space. But through the eyes of aloha 'aina, this same emptiness is very full - for it is full of mana, and full of Spirit! You can feel it when you look and see nothing man-made, nothing artificial - no cars, or roads, or houses - but rather see only 'aina and kai; 'aina and sky (land and sea; earth and sky). You can feel it when you are there, for there in that "empty void" there is solitude, and peacefulness - just you, and nature, and God. You just know... in your "na'au" (gut, heart, intuition). You cannot quantify these experiences and feelings and say that you have 10 units of "spiritual resources" and 8 units of "scenic view resources" and that the negative impacts to, or destruction of, these "resources" by development will be "offset" by 10 units of created jobs and 8 units of land in a land trust. This is absurd! It is a common western perspective to refer to everything as "resources" (including everything in nature) like the EIS does, and then shuffle these all about like chess pieces or some kind of card game. But you see, it is not about "resources," it is about source - source of food and source of Spirit. Spirit is made of quality and experience, and it is a feeling inside. It is na'au. The other meaning of "vacant" is "unintelligent, and again, western developers see the land as inanimate and material, whereas indigenous people (and others who share an aloha 'aina perspective) see the land as living and alive, and as a true part of the 'ohana - another family member to whom we feel love and gratitude, and care for as such. To the Hawaiian culture, and most indigenous cultures around the world, land is sacred, and everything is spiritual, including - and especially - "vacant" land like La'au Point.

Response: Comment noted.

Threats

164. MPL in the EIS makes many "threats" if the La'au development is not approved: The prospect of Ranch lands being split up and sold. (vii) The possibility of BIL selling Molokai Ranch as not

economically viable, which, they say, is "what dictated the urgency of consensus [about the Plan]." (vi) But a project of this magnitude, and one with such widespread opposition and profound impacts, should not be urgent; it should be carefully thought out, not rushed through due to economic concerns. The Ranch's statement that "the Plan would only be viable as an integrated whole." (p.4) This is an "All or Nothing" approach: "No La'au = No Plan." It is saying that the Ranch is unwilling to consider any real alternative, because that is not "the Plan." These threats/d predictions are presented as inevitable consequences of the La'au development not being approved. Indeed, they claim that "the La'au Point project is crucial to the economic viability of the Plan," again effectively closing our sincere consideration of alternatives. (p.4) [Page 146 of the EIS makes more threats. It says that not doing La'au (the "no-action" alternative) would not generate the funds "required to renovate and re-open the Kahuako'i hotel... Without the increase in support for golf and the existing Lodge and Beach Village hotel operations, MPL could be forced to reduce operations and perhaps close those facilities. In addition, MPL could also be forced to reduce or eliminate other subsidized operations such as maintenance, nursery, gas station, and other services...[significantly affecting] existing employment at Molokai Ranch and in Maunaloa Town...[This] would not sustain the Ranch for the future...[and] would eventually lead MPL to close down its Ranch operations...[and would have to] put the lands up for sale. Employment would have to be reduced, tourist expenditures would be lost, and local businesses in Maunaloa Town and elsewhere would be affected...[and] the losses in local jobs and probable business failures would also increase the need for County and State social services." My Goodness! Wow! What a threat! They are saying that Molokai can in no way survive without the Ranch, and the only way that the Ranch can survive is to develop La'au. They have created a scenario in which the only way to do what they want to do is to do what they want to do. No La'au means no hotel. No hotel means no jobs and businesses. And this means closure of the Ranch, sales of lands, collapse of the economy, and everyone on welfare. Ahhhhhhh! But this is all meant to instill fear, and fear is not a reason to approve La'au or any development. Molokai doesn't need a Big Brother - Molokai wants to be self-sufficient. Molokai would survive - and thrive - without the Ranch! [Page 146 of the EIS states that while the "No Action" Alternative would allow the environments of La'au Point to remain untouched to the benefit of those opposing development, negative effects of the impending closure of the Ranch and the unknown risk created by probable land sales, appear to have more far-reaching effects upon the economic and social fabric of the larger Molokai community." the Ranch makes such intense predictions of doom if they were to leave: No La'au means the: impending closure of the Ranch, and the unknown risk, of probable land sales "Basically the collapse of the local, Molokai economy. So dire! These predictions are threats, and they are meant to instill fear in the Molokai community so that they will support the La'au development. If the Ranch truly cared about the community they would not say things like this: that either La'au goes through...or else! [Page 158 states: "Since MPL is cash negative, the shareholders will not permit this to continue without a solution. This solution was formulated over a two-year community process and the resultant Community-Based Master Land Use Plan for Molokai Ranch. If that process and its outcomes are not accepted, its only alternative is to find ways to reduce its overhead by shutting losing operations and selling off the property over time." Another threat. The Ranch is saying this is the "only" way. There are no alternatives to La'au besides closing down business and selling off the land. [Page 157, sect 6.7 of the EIS states that "Postponing or delaying the La'au Point project for reasons, such as allowing the ALDC to find the necessary funds to purchase La'au Point, puts MPL in the positions of being unable to continue its ongoing operations on Molokai." Another threat: now or never - now or else the Ranch will have to leave.

Response: We disagree with your conclusion that we made "threats." We disclosed the results from an expert's analysis provided in the economic and fiscal impacts report (Appendix J of the Draft EIS).

MPL's first obligation must be to its shareholders and its staff who are the main contributors to the company.

Without a viable company that is sustainable - in other words it has earnings that it is planned will continue - or it has the opportunity of a major one-time gain (like the sale of the property) it has no reason for being in existence.

MPL looked at alternatives on the basis of whether they created sustainable earnings by giving its current operations more chance of success and therefore keep current employees in their jobs and give new jobs to the community; whether they were cash positive and whether they met the wishes of the Master Plan; limiting water resources and limiting the number of new residents who came to buy land on the island.

All of the alternatives ever suggested (other than the buyout of La'au by a conservation buyer) did not meet the above criteria, had the very real possibility of failing financially and did not guarantee MPL would have enough funds to re-open the Kaluako'i Hotel at a cost of between \$30 million and \$35 million.

MPL takes its fiduciary duty to its shareholders and its staff seriously and will only contemplate those alternatives that are economically viable.

Visual Impact/Scenic Views

165. Consultant David Kimo Frankel, in his comments, suggested the EIS include a "visual impact analysis": a) With a structure at point x - where will it be seen from? (Last all the places.) b) From point y - what will you be able to see of the development? Where is this in the EIS, if it was done at all? If it was not done, why not?

Response: See Figure 17 of the Draft EIS.

166. Consultants Steve Morgan's question was never answered in the EIS, so I will re-ask it. There is no reason for single-story residential houses to be taller than 15' or have a footprint larger than 3000 square feet? So why is the La'au development being allowed a building height of 25' and 5000 square feet, respectively? The 25' height will, in effect, create 2-story high houses, even though there may be only one floor inside. The whole point was to try to hide and blend the houses in; doesn't this go against that purpose and make them more visible?

Response: The building requirements come from the Master Plan (Appendix A of the Draft EIS), and are based on building requirements for the Conservation District.

167. The EIS states on page 7 that "The existing landscape and views around La'au Point will change with the creation of the rural-residential community...[but] because...the project will only be on 8% of the entire parcel, potential impacts to scenic open space resources are not expected to be significant." I disagree. Seeing houses - even 1 house - is completely different in feeling than seeing "scenic open space resources", for it is a matter of quality, not quantity. It is not the percentage of open space, it is the quality of that open space (i.e. no houses, nothing man-made or artificial). Natural open space in its natural condition. [Although houses and house-lots will only be on "8% of the parcel" (about 400 acres) page 24, "the [total] project area [is] 1432 acres." (p. 24 EIS) This means the project area is actually 23% of the La'au parcel. This entire 1432 acres, and the view of it, will be altered...forever!

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 63 of 67

Response: The total 1,432-acre project area includes the offsite access road corridor, which is not contained within the larger 6,348-acre Lā'au parcel (see Figure 1 of the Draft EIS). Using Table 1 on page 27 of the Draft EIS as reference, the developed areas of the project (house lots, on-site roadways, infrastructure, and public parks) total 477 acres, approximately eight percent of the Lā'au parcel.

168. *Moreover I disagree with the notion in the EIS that the space "between the clusters of lots" counts as "open space." It may have such a zoning designation, but this is not what I, and many others, would consider to be "open space." Indeed, as stated, it is merely space between houses!*

Response: Open space includes the cultural protection zones, expanded Conservation District areas, proposed parks, and common areas in the residential community.

169. *The CIA says that "the southwest shoreline form Kaupoa to Hale o Lono will be ringed by luxury residential homes." There is no trade-off that will offset this, or balance the destruction of the spiritual quality of the area (wilderness/natural open space) or the destruction of the scenic and uplifting view of nature in its natural state. Plans and measures will not do it!*

Response: Comment noted.

Water

170. *6 years ago the Department of Hawaiian Homelands (DHHL) requested 500,000 gpd. The Ranch opposed the request. CWRM has taken no action on request. But the Ranch now wants 1 million gpd. Does anyone else see a problem with this? DHHL still hasn't got their water; they should get theirs first. Simple as that. If that amount cannot be approved for DHHL, then certainly twice that amount cannot be approved for the Ranch either! [¶] On page 80, sect. 4.9.2, the EIS states: "MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water." So, this indicates that the Ranch agrees with my statements above, that the water requested by the Ranch for the Lā'au development and other uses on the West End, cannot be approved until, and unless, DHHL gets their water first. Correct? [¶] The EIS states the water issue is "unresolved." Therefore, the EIS cannot and should not be accepted or approved, or used to grant any permits or land-use changes, until it is resolved. Given the water situation on Molokai, and the January 2007 findings of the Molokai Water Group about the present state of affairs in regard to drinking water on Molokai, it may not be possible to resolve. Thus, this development cannot be given approval to proceed if the water issue is not figured out. The EIS/development cannot be approved on wishful thinking. It is too critical a situation/problem to approve on wishful thinking or simply gloss over - this is a basic need of survival - both for people and for agriculture. For the State to approve the development/EIS with this issue unresolved would be a breach of public trust and likely open the State to a flood of lawsuits. (No pun intended.)*

Response: When DHHL applied for a water use permit to increase pumpage from its Kualapu'u wells in 1996, DHHL was a party in a contested case proceeding on Waioala o Molokai's application for a new well and water use permit in the Kamiloa aquifer. In the Waioala contested case, DHHL took the position that pumping 1.25 mgd from the proposed Waioala well, which was more than 3 miles away from the Kualapu'u well field, would adversely affect existing pumping from the DHHL wells. According to DHHL, the transition zone was close to the bottom of its wells, thus the additional pumping by Waioala would result in an unacceptable increase in chloride levels in the DHHL Kualapu'u wells. At the same time, DHHL contradicted itself by filing an application to pump more out of its existing wells.

Adam Mick

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 64 of 67

Waioala/Molokai Ranch did not oppose DHHL's application, but sought to explore this contradiction that through a contested case proceeding on DHHL's application.

DHHL did not receive a permit for additional pumping because the Water Commission staff recommended that the application be denied because DHHL was proposing to increase pumpage from wells that were already showing indications of localized upconing due to the close proximity of the two DHHL wells and the County well. Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. DHHL proposed reducing the amount of increased pumpage, but was not willing to consider a new well site.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

171. *The Ranch, on page 112 of the EIS, says one of their "exchanges" for the Lā'au development will be that the Waioala well and pipeline will be abandoned. Uh...didn't the Supreme Court already say "No." to that well?*

Response: The EIS does not make reference to an "exchange." The Hawai'i supreme court remanded the Waioala water use permit case back to the Water Commission for further proceedings. MPL could ask that the proceedings be re-opened to give MPL the opportunity to address the issues the supreme court identified as requiring further evidence, namely, the impact on DHHL's reservation in the Kualapu'u aquifer and the impact on traditional and customary Native Hawaiian practices. On MPL's request, the Water Commission has not yet re-opened those proceedings.

172. *Page 130 of the Cultural Impact Assessment lists four major concerns regarding the Ranch's request for more water: Impact on Aquifer, Impact on Hawaiian Homesteaders, Keep Water within Ahupua'a, Impact on the Ocean. These have not been satisfactorily addressed by the EIS.*

Response: This was discussed in Section 4.9.2 of the Draft EIS, Chapter 8, p. 134 of the Cultural Impact Assessment outlines the proposed mitigation measures for the water plan. Appendix P, the water plan, provides information that addresses these concerns in more detail.

As a first step in finding solutions for the sustainable use of water on Molokai, MPL met in September 2006 with the major managers of water resources on the island - Department of Hawaiian Homelands (DHHL); the County of Maui; Kawela Plantation Homeowners, the United States Geological Services (USGS) and the Commission on Water Resource Management. At the meeting, the USGS agreed to conduct a comprehensive modeling analysis of the water resources of the island in order to determine the annual sustainable yield.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "DHHL's Future Water Needs."

Adam Mick
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 65 of 67

173. *Community mana'o from page 132 of the CIA: "Hear that the Homesteaders don't have enough water, but when want to build a project like this, all of a sudden then get water. All of a sudden get water? Who are we kidding? This is water that is being diverted to something that won't benefit the island." [17]The CIA states and asks on page 155: "There is also the critical issue of water. Is there enough to provide for all of the islands major uses and yet allow this development to draw out 1,000,000 gpd of brackish water from Kākalahale. The Hawaiian homesteaders have a special claim and particular interest in this issue." So, again, you have to resolve the homestead claims first, and DHHL has no right to give away any of their water which is reserved for homesteaders.*

Response: The shortage of water available to Hawaiian Homesteaders is not due to a scarcity of water resources on Molokai. Instead, the lack of infrastructure has hampered DHHL's ability to meet the demands of its homesteaders. Since 1995 DHHL has had a reservation right to develop another 2,905 mgd of groundwater in the Kualapu'u aquifer. When DHHL requested that amount, it was anticipated that it would meet the domestic and agricultural water needs for DHHL lands in Ho'olehua and Kalama'ula. In 1996 DHHL proposed to pump some of that reservation amount out of its existing wells in Kualapu'u. Because there already were indications of localized upconing due to the close proximity of the two DHHL wells and the County well, Water Commission staff recommended that any increased withdrawals should be from new wells strategically located elsewhere in the Kualapu'u aquifer so as not to interfere with water quality in the existing wells. At the time, DHHL was not willing to consider a new well site.

To date, DHHL has not identified alternate well sites and thus, has not developed any of its 2,905 water reservation.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)". The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "DHHL's Future Water Needs."

174. *Furthermore, the CIA states on page 126 that: "On the island of Molokai, the struggle over water is longstanding and rooted in a cultural way of life that is dependent upon subsistence. This subsistence lifestyle is threatened when coastal resources that thrive in brackish water environments are negatively impacted due to a diminishing aquifer...[The knowledge] and understanding of the interdependence of the marine environment upon infusions of fresh water which sustains a subsistence lifestyle for the people of Molokai; elevates the struggle over the use and distribution of fresh water from a struggle to perpetuate the culture and a way of life, to a struggle to protect life itself." Taking water to La'au would detrimentally affect subsistence on the entire island of Molokai by severely impacting the interconnected eco-system of the island's environment.*

Response: See our response to #172 above.

175. *Page 134 of the CIA regarding the "Mitigation Water Plan" that "MPL will be required to measure chloride levels every month to protect against unacceptable salinity levels." Okay, and what if they are indeed found to be "unacceptable"? What are you going to do? La'au would already have been developed, and the people living there getting water. Are you going to cut off their water? If not, where will it come from? Honestly, are you going to cut off the millionaires' water or the Hawaiian Homesteaders? Or take water that is supposed to be for future homestead lots?*

Adam Mick
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 66 of 67

Response: The Water Commission, before it issues any pump installation permit, requires that a pump test be conducted to determine the impacts before long-term pumping is permitted. Depending on the results of the pump test, the size of the pump may be modified or other changes made. By conducting a pump test before a permanent pump is installed, most of the risk that the well water will go salty can be avoided.

If, however, long-term pumping has a more adverse impact than anticipated on the aquifer or on other wells, adjustments to pumping, including, if necessary, shutting down the well, may be required.

By way of a standard condition imposed on all water use permits, the State Commission on Water Resource Management reserves the right to reduce the amount of water allocated for any of the following reasons:

- Protect the water sources (quantity or quality);
- Meet other legal obligations including correlative rights;
- Insure adequate conservation measures;
- Require efficiency of water uses;
- Reserve water for future uses;
- Meet legal obligations to DHHL;
- Carry out such other necessary and proper exercise of the Commission's powers.

176. *According to Coaters 1858 map of the Molokai population on page 56 of the CIA, the entire West End of Molokai was uninhabited. Almost all the population was on the East End - Mana'e - and on the Northern "backside" - Halaawa, Wailau, Pelekunu, Waikolu, and Kalaupapa! Why? Because there was no water on the West End. The water is on the East End and backside. La'au has no water, and it is not meant to! Leave the water where it is.*

Response: We acknowledge your comment. Through the Molokai Community Plan, Molokai residents have determined that the East End should remain relatively undeveloped and that development should be directed to the West End and Central Molokai. Implementation of this aspect of the Community Plan necessitates the movement of some water from one part of the island to another.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Adam Mick
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 67 of 67

Attachments:

Revised Section 4.3 (Trails and Access)
Revised Section 2.3.6 (Covenants)
Revised Section 3.6 (Flora)
Revised Section 3.7 (Fauna)
Revised Section 2.1.8 (Moloka'i Land Trust)
Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII



To whom it may concern,

Aloha mai. My name is Ana Sibayan and I am a student at Molokai High School. We are doing a class response assignment on the Draft Environmental Impact Statement. I have read pages 88 and 89 about the police and fire protection and how it will have an impact on the community if La'au is developed on.

It is stated on page 88 in the *Potential Impacts and Mitigation Measures* section that the La'au project may impact police protection do to the people and activity on and around the project. It also states that "La'au point is very remote and the response time for all emergency services is about 25 minutes." I feel that that statement about the emergency response is not true. Do that we only have one police department with only three police officers on duty for eight hours, it will take more than 25 minutes for emergency services to respond, especially if the location of the police departments location is far away from West end. If anything should happen at the West end it will eventually take time for the police officers to respond. Why is there going to be security services that will help to deter trespassing, loitering, and property crime and we can't go in there? Why do we have to park outside on either ends or walk to our destinations?

The fire protection is also going to have an impact on the community. It is stated on page 89 of the fire protection section that "the project area is about 25 to 35 minute response time from the Ho'olehua fire station and about 20 additional minutes from Kaunakakai" Why is it that on page 88 of the police section it is stated that it will only take 25 minutes for police to respond to the location at La'au? But in the fire section it is stated the same thing, that it will also take 25 minutes for the fire department to respond from the Hoolehua location. Why does the fire department (which is closer to La'au than the Police station is) take the same amount of time as the police department (25 minutes) when the police department is farther? Some one is wrong. The police department is about 10 miles farther then the Hoolehua fire department so wouldn't it take more time for the police to respond?

These are my concerns. I feel that the development on La'au will make a huge impact on Molokai because of so many things and changes. This is just some of the impact that is going to be done to Molokai if La'au is developed. Mahalo nui for taking the time to read my concerns.

Aloha and Mahalo.

Ana Sibayan

November 1, 2007

Ana Sibayan
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Miss Sibayan:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). Your comments deal with police and fire services.

1. *I feel that that statement about the emergency response is not true. Do that we only have one police department with only three police officers on duty for eight hours, it will take more than 25 minutes for emergency services to respond, especially if the location of the police departments location is far away for the police officers to respond.*

Response: We acknowledge your comment. The 25-minute response time is an estimate; we concur that emergency response time can take longer. Currently access to the area is via unimproved and dirt roads. As previously discussed in Section 4.10.3 of the Draft EIS, the access road will be paved, improving the road conditions, which in turn can reduce emergency response time. In addition, emergency response does not have to go all the way to Kaluako'i to access La'au Point. They can use the existing emergency access dirt road from Hale O Lono Harbor.

2. *Why is there going to be security services that will help deter trespassing, loitering, and property crime and we can't go there?*

Response: It is not uncommon for Homeowners' Associations to hire their own security services. Because security is on-site, it relieves pressure on police to have to patrol the area. However, La'au Point will not have a security service, but rather land managers to help enforce the rules that the Land Trust and the Community have developed in a Shoreline Access Management Plan.

3. *Why do we have to park outside on either ends or walk to our destinations?*

Response: The La'au Point roads will be accessible to the public. Although anyone can drive on the roads, parking will not be available on the roads nor will there be public access to the shoreline from within the community.

As previously discussed in Section 4.3 of the Draft EIS, the reason for only allowing public access at the two ends is that the community requested it to help preserve the area and to prevent too many people from depleting the subsistence (fish, ophi, etc.) resources. It will also help to

Ana Sibayan
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

protect the cultural resources and endangered plant by making it harder for people to access those preservation areas.

4. *Why does the fire department (which is closer to La'au than the Police station is) take the same amount of time as the police department (25 minutes) when the police department is farther? Some one is wrong. The police department is about 10 miles farther than the Hoolehua fire department so wouldn't it take more time for the police to respond?*

Response: See our response to #1 above. In addition, the difference in distance is not the determining factor in the timing. The fire department and fire trucks take longer to mobilize and cannot travel as quickly as the police.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII



Molokai Properties Limited

November 1, 2007

Andra Morrow
1867 Kaioo Drive 406
Honolulu, Hawaii 96815

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Morrow:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the project's impact on the environment and note your opinions about a lack of benefits and a lack of public support.

Because you did not specify the "impact on the environment, which has been documented by numerous agencies," we are unable to respond directly to this comment. We do note that the purpose of the EIS is to disclose the project's identifiable impacts to the natural and human environment, to determine their significance, and to propose mitigation wherever practicable.

We respectfully disagree with your comment that the project lacks benefits to the community. As discussed throughout the EIS, the objectives of the Lā'au Point project are rooted in MPL's desire to create a sustainable future for Moloka'i through implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). The goal of the Master Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Master Plan and the Lā'au Point project are to:

- Develop sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community.
- Secure the role of the community in the management of MPL's 60,000+ acres.
- Re-open the Kahuako'i Hotel and create in excess of 100 jobs.
- Protect cultural complexes and sites of historic significance on MPL lands.
- Protect environmentally valuable natural resources and agricultural land, pasture, and open space.
- Create a Land Trust with donated lands from MPL (see Section 2.1.8 of the EIS).
- Provide an endowment that serves as a continuous revenue stream for the Community Development Corporation (see Section 2.1.9 of the EIS).

We also disagree with your comment that the project lacks public support. This comment does not reflect the full breadth of input presented during the Master Plan planning process. We note that there are many Moloka'i residents who support the project. The Master Plan was created by participating community members that volunteered their time at numerous meetings (see Section 2.4 of the Draft EIS) to plan a sustainable future for Moloka'i. The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'au

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808-955-5727/andram@hawaii.edu
February 22, 2007

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745 Fort Street Mall, Suite 600
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Attention: Peter Nicholas and John Sabas
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State Land Use Commission
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Attention: Anthony Ching
Telephone: (808) 587-3822
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Office of Environmental Quality Control
235 S. Beretania St., Suite 702
Honolulu, HI 96813
Fax: (808) 586-4185

Dear Mr. Nicholas:

I am writing in regard to the proposed development at Lā'au Point. My concern in the matter is directed toward the impact on the environment, which has been documented by numerous agencies, and the lack of benefit that has been show to the community. Moreover, the complete lack of public support of the project.

Sincerely,

Andra Morrow

Andra Morrow
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

Point project, and the Master Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span. The Master Plan participants have made it clear their support through the comprehensive Master Plan document.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

January 30, 2007

To whom it may concern,

Hi my name is Anuhea Naeole and I'm a senior at Molokai High School. For our science class we had an assignment on the Draft Environment Impact Statement. We were to choose a topic that we were interested in.

I've read pages 30-31. I understand that the people of Molokai have access to subsistence gathering. From reading these pages I understand that we may walk along the beach areas to gather the necessary resources that we need, but with the understanding that we are only able to park at the end of the residential community. After reading these pages I was wondering if it was possible for you to go a little deeper and answer these questions of mine.

Pg. 30 How often is continuously when monitoring the water quality once a year, once a month, or every 5 years?

Pg. 30 How will the La'au Community be educated about the community of Molokai when they move here, classes, orientation or a booklet? And if booklets how do you know that they will read it?

How can we refer to the CC&R's when it isn't even finished yet for the community to see?

At this time I would like to thank you for all of your time and for taking the time to read my questions on the Environmental Impact Statement Draft.

Sincerely,
Anuhea Naeole



November 1, 2007

Anuhea Naeole
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Miss Naeole:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We responded to your comments.

1. Pg. 30 How often is continuously when monitoring the water quality once a year, once a month, or every 5 years?

Response: The Land Trust will monitor the coastal water quality several times a year. Water quality monitoring may be increased during times of excessive rainfall. The following statement has been added to Section 3.8 (Marine Environment) of the Final EIS:

Potential short-term impacts of construction on marine waters will be mitigated by implementation of State and County approved Best Management Practices to control drainage and mitigate erosion from grading for the duration of the construction period. Subsequent water monitoring activities will be conducted by a Council representing Homeowners and the Molokai Land Trust. These organizations will have management responsibility and enforcement authority over the Pu'u Hakua and Kamaka'ipo (1.3.3 area) shoreline area and fishing zone. The Land Trust will conduct the monitoring on a regular basis. Should it be determined that there is some problem with water quality, testing will be undertaken and investigation made as to the cause. The action taken will depend on the results of the investigation and the attributed cause. Through the CC&Rs or through the courts, the problem will be rectified if the cause is a violation of the law of the CC&Rs.

2. Pg. 30 How will the La'au Community be educated about the community of Molokai when they move here, classes, orientation or a booklet? And if booklets how do you know that they will read it?

Response: SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

To reflect the information above in the Final EIS, as well as to address other questions and concerns regarding shoreline access issues, Section 4.3 (Trails and Access) has been revised as

Anuhea Naeole
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

shown on the attachment titled, "Revised Section 4.3 (Trails and Access)," and the SAMP has been included as an Appendix to the Final EIS.

3. *How can we refer to the CC&Rs when it isn't even finished yet for the community to see?*

Response: Section 2.3.6 of the Draft EIS summarizes agreed-upon covenants from the overall *Community-Based Master Land Use Plan for Molokai Ranch* (see Chapter 5 of Appendix A: pages 101-105). As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachment: Revised Section 4.3 (Trails and Access)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

Jan. 30. 2007

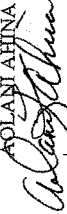
To Whom It May Concern:

My name is Aolani Ahina a senior at Moloka'i High School. I am doing a class assignment on the Draft Environmental Impact Statement (EIS), where we had to choose a topic we were interested in, read it, and so a sort summary and ask questions if we had any.

My overall summary on my section that I choose which was the Executive Summary (pages 4-16) is that it wasn't really clear and they repeated a lot, which made it seem like they just wanted to take up space to make it longer. There was very little detail and sometimes it didn't even making sense. I have a few questions I would like to ask upon reading my section. Why aren't the CC&R's available to the community? Where are you getting the water? Will we the community or public be able to go through the road? Why or Why not? What is the chapter 226 HRS?

I really appreciate the time you took to read my thoughts and questions. Thank you for your time, and I hope that this not only benefits me, but also other as well.

MAHALO NUI LOA,

AOLANI AHINA




November 1, 2007

Aolani Ahina
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawaii 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Miss Ahina:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *My overall summary on my section that I chose which was the Executive Summary (pages 4-16) is that it wasn't really clear and they repeated a lot, which made it seem like they just wanted to take up space to make it longer. There was very little detail and sometimes it didn't even making sense.*

Response: The Executive Summary serves as an overview of the main points of the Draft EIS. Full, detailed discussions of topics are provided in the specific sections of the EIS.

2. *Why aren't the CC&Rs available to the community?*

Response: Generally, Conditions, Covenants & Restrictions (CC&Rs) for a project are completed after the EIS process. CC&Rs are deed restrictions, and therefore, provided to the buyer upon purchase of property in that specific residential community. CC&Rs are not generally public documents that need to be made available to the community.

Section 2.3.6 of the Draft EIS, however, summarizes agreed-upon covenants from the overall *Community-Based Master Land Use Plan for Molokai Ranch* (see Chapter 5 of Appendix A: pages 101-105). As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in the Final EIS. The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

3. *Where are you getting the water?*

Response: Section 4.9.2 and Appendix P of the Draft EIS discuss the Water Plan for Lā'au Point and the overall *Community-Based Master Land Use Plan for Molokai Ranch*.

Aolani Ahina
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

4. *Will we the community or public be able to go through the road? Why or Why not?*

Response: The Lā'au Point roads will be open to the public and accessible by all. Although anyone can drive on the roads, parking will not be available on the roads nor will there be public access to the shoreline from the roads.

Access to the Lā'au Point area, and the reasons for restricting access in order to protect the subsistence resources, is discussed in Section 4.3 (Trails and Access) of the Draft EIS.

5. *What is the chapter 226 HRS?*

Response: Chapter 226, HRS is the Hawai'i State Planning Act, which set forth the Hawai'i State Plan that shall serve as a guide for the future long-range development of the State; identify the goals, objectives, policies, and priorities for the State; provide a basis for determining priorities and allocating limited resources, such as public funds, services, human resources, land, energy, water, and other resources; improve coordination of federal, state, and county plans, policies, programs, projects, and regulatory activities; and to establish a system for plan formulation and program coordination to provide for an integration of all major state, and county activities.

The sections of the Hawai'i State Plan directly applicable to Lā'au Point, along with a discussion of how the project conforms to the State Plan are included in Section 5.1.5 of the Draft EIS.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

ASUKA HIRABE
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February 23, 2007

Dear Mr. Nicholas:

I am a student at University of Hawaii at Manoa. I would like to thank you for an opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the proposed La'au Point development project on the island of Molokai, Hawaii.

I have reviewed the DEIS and my comments are as follows:

1. Comment on the New Land Zoning

In DEIS, you have proposed substantial positive impacts that the La'au Point Project can bring to the Molokai community including the new land zoning and donation of land. The following is my comment on the subject;

a) *Land Donation of 26,200 acres to the Molokai Land Trust*

This portion of land will be owned and operated by the Land Trust. However, the Molokai Land Trust is not considered a part of the Molokai Community, being a self-perpetuating private organization that requires no community inputs. Moreover, the initial board of directors of the Land Trust has continuously denied the voting privileges to the Molokai Community regarding La'au Point Project, which clearly does not make this a contribution to Molokai community.

b) *24,950 acres put into permanent Agricultural and Open Space Easements*

Of this portion, 10,560 acres will be zoned rural landscape and the other 14,390 acres will be zoned agricultural. However, this land will still remain under the ownership and operation of Molokai Ranch. Furthermore, 14,390 acres being agricultural zone is only a matter of formality and technicality. "The Plan" states that only 'farm dwellings' will be allowed in this agricultural zone; however, all of the large homes on the West are legally considered 'farm dwellings.'

2. Is La'au Point Really Essential to Re-open Kalaiko'i Hotel?

From 2003 to 2006, Molokai Properties Limited (MPL) has sold more than \$25 million worth of properties in Kalaiko'i, which the company originally purchased for \$9 million from Kuku'i Molokai, generating extremely high profitability given there still are properties yet to be sold as well as currently-closed hotel, existing golf course, restaurant sites, 5 future hotel sites, a future golf course site, and a large area that could possibly provide up to 500 additional homes. In addition, the company sold \$9 million in Maunaloa in the same period, contributing to nearly \$150 million overall profit of its parent company Bill International Limited (BIL) from 2004 to 2005. Nevertheless, MPL has reiterated that the sales of 200 2-acre La'au Point lots are essential to finance the \$30

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State Land Use Commission
PO Box 2359
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Attention: Anthony Ching
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Office of Environmental Quality Control
235 S. Beretania St., Suite 702
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million expense for renovations and reopening of Kaluako'i Hotel, pointing out that MPL incurs annual operating expense loss of \$3.7 million, totalling net loss of about \$31.6 million from 2001 to 2006. In addition to annual capital expenditures averaging over \$0.8 million. However, some states that this massive expense loss might be ascribed to the poor management of Moloka'i Lodge.

Maunaloa, once flourished with plantations and homes for the plantation workers, is now a dead town in the middle of nowhere. Neither beaches nor the main town, Kaunakakai, is close to the area. Moloka'i being the least touristy island, of all accessible Hawaiian islands, with no travel agency or tourism bureau on site or a direct flight from outside Hawaii, it requires extra efforts to attract tourists to the island. In this kind of challenging situation, it requires further efforts to attract those who did visit the island to their hotel over their rival hotels. However, having not many options available for the tourists (hotels, restaurants, golf courses, etc), it does not create much competition within the island. Having a brand-name usually helps attract tourists; nonetheless, even with a brand-name, Moloka'i Lodge (used to be owned by Sheraton) seems to have failed continuing their operation. Located in the middle of nowhere, Moloka'i Lodge's price rates (almost as expensive as Lodges at Koele in Lanai, which is owned by Four Seasons and is located about 5-minute drive range from the city centre) and exorbitant food at its restaurant apparently did not help the situation. Not showing the rates on its website might be one of the elements for customers to give up on staying at Moloka'i Lodge as major criteria for customers when choosing a place to stay often include rates, location, facilities & services provided.

Many traveller reviews indicate that Moloka'i Lodge's quality of service is below the average, food at the restaurant in the lodge does not meet the expectation considering the price, some of its facilities was not functioning, and some staff seemed somewhat ignorant of customers' needs. Employees' low motivation due to cheap wages as well as the fact that many of them have not experienced high-class services as there exist no other 4/5-star hotels in Moloka'i might have partly contributed to the poor quality of services. There was also a complaint reported to the Department of Commerce and Consumers Affairs about misleading advertisement by Moloka'i Ranch.

On the other hand, another hotel in Moloka'i, Hotel Moloka'i, seems to be running successfully. Hotel Moloka'i has more local, laid-back, Polynesian ambience, offers decent food for a cheaper price (where even locals sometimes eat at), and is located right in front of the beach in the main town, Kaunakakai. Moreover, they charge approximately a third to a half of what Moloka'i Lodge charges.

I believe, by strategically improving the management and operation, Moloka'i Lodge would still have a chance to be reactivated and enhance its profits. Brief areas for improvement in my analysis are as follows;

- a) Redefine company values and philosophy, and retrain the employees accordingly
- b) Encourage and motivate employees by raising their wage in order to achieve an eventual increase in quality of services
- c) Downsize operation of Moloka'i Lodge and lower the rates for the rooms
- d) Improve Moloka'i Beach Village and charge more (focusing more on profits from the Beach Village)
- e) Offer more options for cheaper eating places, and
- f) Improve the hotel website.

Reopening of Kaluako'i Hotel will be costly; however, with the kind of profits MPL and BIL in the past few years and by revitalizing and reactivating Moloka'i Lodge, I firmly believe that there would be ways to avoid sacrificing La'au Point for survival of MPL.

3. Impact on "The Way of Life" in Moloka'i

What the "Master Plan" fails to take into account seems to be a long-term effect of how culture and the lifestyle of the inhabitants will be affected by La'au Point Project. Besides the currently concerned issues regarding the environment and infrastructure, one of the major critical aftermaths caused by the project would be the eventual gradual (but definite) changes in the characteristics of the island Moloka'i.

Moloka'i is known as the "Friendly Island" as well as the "Last Hawaiian Island," where life is simple, slow, and relaxed. Moloka'i is where traffic is caused when there are only three cars on the road because people tend to drive slowly. Moloka'i residents are members of a close-knit community that strive to live as one with nature and to maintain their self-sufficient, family-oriented, and traditional way of life as their kapuna once did. Many of them only work to supplement their subsistence efforts and/or to be able to afford to pay for other necessities. Hawaii being the tourism capital of the United States, what makes Moloka'i special and perpetuates this island authentic and truly Hawaiian can be somewhat attributed to insufficiency of 'material things,' low degree of tourism, and therefore untouched, unspoiled, and undeveloped land.

Many residents of Moloka'i feel that Moloka'i is the best place to raise their children and also place a lot of importance in passing on their knowledge and skills needed for subsistence living as well as traditions and the way of life in Hawaii from generation to generation. The reason why they feel that Moloka'i is the best place to raise their children is because there are relatively small influences from the outside world (or the capitalistic world), compared to the rest of the accessible islands of Hawaii. Moloka'i consists of rather a homogenized society. If this project succeeds to continue, it will be the first time there are different classes on Moloka'i. The wealthy attract new, fancy, luxurious businesses to be catered to them, which are inaccessible to the lower financial class. Regardless of the residents' desire or determination to stay traditional,



with more 'material things' brought in to supply the millionaires it will more or less introduce the sense of materialism, or 'bleaching effect,' into the island, or more specifically schools where both original residents and children of millionaires will be attending, which is certainly a negative impact on education of the children of the island. In the worst case, driving the land prices to escalate, there can even be a situation where those who have lived in Molokai for generations can no longer afford to live there, just like what has already happened in Oahu, where 12,000-15,000 people are homeless, of which 17-42% is employed full-time.

Acceptance of "outsiders," especially the wealthy, will certainly dilute a unique set of values that have been established over 1500 years, not to mention additional 2500 years from first settlement of humans in Polynesia to their migration to Hawaii. Short-term influences of the project might seem manageable or endurable now. However, a long-term effect that this project will most likely trigger can provoke irredeemable consequences over time. Many cultures are being, or have been lost, all around the world as a result of missionary, colonization, globalization, and so forth. This is your chance to save a culture, a culture with 4000 years of history that is absolutely fascinating. In DEIS, you have proposed substantial positive impacts that the La'au Point Project can bring into the Molokai community that would 'offset' the negative impacts. Do you truthfully agree that aforementioned negative impacts are worth making in order to earn quick cash? Do you truthfully agree that those positive impacts you've proposed really 'offset' aforementioned negative impacts in addition to impacts on the environment?

Should you have any questions, please contact me at hirabe@hawaii.edu.

Sincerely,

Asuka Hirabe

November 1, 2007

Asuka Hirabe
2323A Seaview Avenue
Honolulu, Hawaii 96822

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Hirabe:

Thank you for your letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We offer the following responses.

1. Comment on the New Land Zoning

- a) We acknowledge your comments about the Land Trust; however, we respectfully disagree. The Land Trust directors are community members that have volunteered several hundred hours of their time to educating themselves on the land trust model and working with consultants and experts in the land conservation field to create this community Land Trust.
- b) The easement lands will remain under MPL ownership; however, the management and operation on the easement lands will be by the Land Trust. Farm dwellings on agricultural easement land will be accessory to agricultural activity.

2. Is Lā'au Point Really Essential to Re-open Kaluako'i Hotel?

We acknowledge your comments about re-opening Kaluako'i Hotel and the management of Moloka'i Lodge.

MPL has sold a considerable amount of property, mainly lots at Kaluako'i and Maunaloa and some agricultural land. As has been outlined in the Economics report (provided as Appendix J of the Draft EIS), accumulated cash deficits between 2001 and 2007 total \$42 million. Land sales in that period have enabled MPL to remain cash positive and not seek to debt fund its operations or seek funding from its parent.

MPL's parent will no longer fund MPL's operations. If MPL is unable to fund its own operations, MPL will be forced to sell its property piece meal over time to the highest bidders as this will obtain maximum cash returns. MPL would be unable to meet interest payments on debt funding and not have the necessary interest cover to give comfort to a bank. MPL can shut many of its loss making operations now. However the cost in terms of human turmoil may be unnecessary with an economic future that is proposed by the Master Plan. MPL and its staff believe it is operating the company in a fiduciary and proper manner for the benefit of its stakeholders.

As discussed in the Draft EIS, both the Lā'au Point project and the Kaluako'i Hotel renovation and re-opening are just two pieces of a comprehensive *Community-Based Master Land Use Plan for Molokai Ranch* (Plan). As stated in Section 2.1.7 of the Draft EIS, the objectives of the Lā'au Point project are rooted in our company's desire to create a sustainable future for Molokai and Molokai Ranch through the implementation of the Plan. The goal of the Plan was to create new employment and training opportunities for Molokai residents and to provide the community with certainty about its future. The objectives of the Plan are shared by the Lā'au Point project and include:

- Developing sustainable economic activities that are compatible with Molokai and the vision of the Molokai Enterprise Community (EC).
- Securing the role of the community in the management of MPL's 60,000+ acres.
- Re-opening the Kaluako'i Hotel and creating over 100 jobs.
- Protecting cultural complexes and sites of historic significance on MPL lands.
- Protecting environmentally valuable natural resources, agricultural land, pasture, and open space.
- Providing an endowment that serves as a continuous revenue stream for the Molokai Community Development Corporation (CDC).
- Protecting and enhancing subsistence gathering, an important element of life on Molokai that includes ensuring public access to and along the shoreline area adjacent to the project.
- Protecting Molokai's water resources, by minimizing drinking (potable) water use.

Since the Lā'au Point project is the primary financial component to achieve the Plan's objectives, non-implementation of the project means that most, or all, of the Master Plan may not be realized.

The economic reality is that without the funds from the Lā'au Point development, MPL does not have an economic future, and certainly has no funds to re-open the Kaluako'i Hotel.

MPL has no debt and no borrowing capacity because it is operationally cash negative and would not meet any bank's requirements for interest cover on any debt funding to re-open the hotel.

MPL estimates that to re-open the Kaluako'i Hotel will, at 2007 costs, needs \$30 million and additional cash costs of up to \$5 million to fund initial losses before the hotel operation becomes cash positive.

Land sales will not fund the re-opening of the hotel as well as fund operational losses.

MPL has continued to make operational improvements at the Lodge and Beach Village, improving its losses from both operations from more than (\$2 million) in 2003/4 to (\$600,000) in 2006/7. MPL's Lodge and Beach Village staff are always looking to make operational improvements. However the outside world view of Molokai and its unfriendly attitude towards visitors is a major impediment to additional revenue opportunities at both tourism establishments.

3. Impact on "The Way of Life" in Molokai

We note that your concerns regarding the lifestyle on Molokai were discussed in Section 4.8.3 (Community Character) and Appendix M (Social Impact Assessment) of the Draft EIS. We disagree with your statement that the Master Plan fails to take into account the culture and lifestyle of Molokai. On the contrary, the Master Plan reflects the efforts and values of hundreds of Molokai residents. In interviews conducted for the Social Impact Assessment, people felt that the Master Plan: 1) provides a reliable basis for community expectations; 2) allows for meaningful local control; 3) contains significant conservation and preservation measures; 4) allows for the protection and management of subsistence activities; and 5) will lead to the reopening of the Kaluako'i Hotel and upgrade of the Golf Course.

We agree with and appreciate your statements regarding the Molokai lifestyle. In Section 4.2.2 of the Social Impact Assessment (Appendix M), the "Molokai style" was described as being founded on Hawaiian values, and characteristics of this lifestyle included being laid back, respectful, helpful and accepting social interactions, and a tradition of survival.

Your expectation that this project will be "the first time there are different classes on Molokai" is incorrect, however. Molokai is not homogenous. Demographics indicate ethnic diversity and a diverse labor force. Economic diversity is suggested by the wide range of housing costs. Recent real estate transactions suggest that affluent people are continuing to buy expensive homes in East Molokai. Section 5.4.4 of the Social Impact Assessment notes that from January 2000 to May 2006, there were 83 real estate transactions, not including family transfers and other non-applicable transactions. The mean selling price for the total inventory, not including the highest and lowest values, was \$334,774. In contrast, the mean selling price of the 47 homes in Maunaloa, Kualapu'u and Kaunakakai was \$235,586. In short, Molokai already has a community that is mixed in many ways.

Further, the level of new population due to Lā'au Point is not significant to cause major social impact. As discussed in Section 5.1 of the Social Impact Assessment, the project permanent population at build-out is estimated at 174 persons, which is only two percent of the forecasted 2025 population. On the average Lā'au Point residents will make up three percent of the island 2025 population. Further, the new Lā'au Point residents will not be the only new Molokai residents. The residents in proposed new DHHL projects would account for 13 percent of the forecasted population in 2025.

The proposed Lā'au rural residential development would potentially increase the Maunaloa population back to the level that it was before the pineapple plantation phased out. According to the 1970 census, Maunaloa was a bustling town of 872. At that time there was a full-service gas station, a large grocery store, a couple of restaurants, and a fully enrolled elementary school. The 2000 census reported the population of Maunaloa as 230. The gas station is only open for a few hours a day, the grocery store has a limited number of items and the only restaurant is part of the Molokai Ranch Lodge Hotel and the elementary school is sparsely enrolled. Even with the development of the Kaluako'i Resort and subdivision in the 70s and 80s, the overall population of West Molokai only increased by 53 from 2,515 in 1970 to 2,568 in 2000. Rather than increasing traffic and the demand for limited parking spaces in Kaunakakai or lengthening lines

Ms. Asuka Hirabe
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 5

in the Kaunakakai grocery stores, the proposed development could breathe new economic life to revive Maunaloa town and relieve the pressure on Kaunakakai.

In contrast to Maunaloa, the population of East Moloka'i nearly doubled from 2,574 in 1970 to 4,688 in 2000. Moloka'i families have been selling lands to persons from off-island, one-by-one, lot-by-lot. The cumulative impact of this unmanaged growth is that the prices of land, houses and the property taxes have risen beyond the reach of many of the upcoming generation raised on the island. Some of the newcomers are only seasonal residents, and rent out their homes as vacation rentals when they are away, which has changed the close-knit quality of neighborhoods. The demographic changes already witnessed in East Moloka'i have made the longtime residents of Moloka'i fearful of the proposed development of 200 new lots potentially priced at \$1million or higher. These fears provide fertile ground for opponents of the Master Plan and their campaign against development on the south and west shores of the island. It is especially appealing to the young generation and those who are not from Moloka'i. They are either too young or unfamiliar with Moloka'i before the plantations closed to remember the level of the population and related social and economic activity in Maunaloa town during that period.

Regarding your concern about escalating land prices, the Lā'āu Point project is not expected to affect real property taxes. As discussed in Section 4.8.2 and Appendix L of the Draft EIS, assessments of existing property that is not adjacent (and thus not competing in the same market or market area), and/or that has different highest and best use potentials, will not be directly affected. This finding is based on analysis of paired assessment trends over time between expanding development and non-adjacent land holdings, an understanding of value trends and influences, and discussion with Maui County and O'ahu tax offices concerning this specific matter. The Lā'āu Point project is physically separated from the rest of Moloka'i by hundreds of acres of Ranch land, and will be a unique market unto itself.

The "no action" alternative which opponents advocate would ultimately lead MPL to close down its ranch operations and either land bank the property for the future or put the lands up for sale. Employment would be reduced to 10 fulltime staff, tourist expenditures would be lost, and local businesses at Maunaloa Town and elsewhere would be affected. This, in turn, will increase the need for County and State social services.

While the "No Action" alternative would reduce the immediate demand on water resources and leave Lā'āu undeveloped, in the long run, when combined with the inevitable alternative of bulk or "Piece-Meal" sale of MPL lands, it would increase the level of development, not only at Lā'āu but on all Ranch lands and increase the demand for water. Under the existing community plan and zoning, MPL lands can be sold to potentially eight times the number of new landowners proposed in the Master Plan. If sold to an investment corporation, land can be developed over and beyond the proposed 200 two acre lots. The U.S. Marine Corps has already indicated that it would purchase or lease Ranch lands now slated for development on the Western coast for amphibious landings exercises. The impact to cultural sites and natural resources utilized for subsistence, cultural and spiritual purposes would be far greater than what is projected in the proposed development. "No Action" would ultimately evolve into the worst case scenario for Moloka'i.

Ms. Asuka Hirabe
SUBJECT: LĀ'ĀU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 5 of 5

We respectfully disagree with your viewpoint about the short and long-term effects of the project. The Master Plan and its implementation were not created just to "earn quick cash." It is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The Lā'āu Point project, and the Plan, which the project is an integral part of, is the product of more than 150 community and special interest group meetings over a three-year span (see Section 2.4 of the Draft EIS). The Master Plan was created by participating community members that volunteered their time and efforts to plan a sustainable future for Moloka'i.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

BARBARA AND KEITH RASMUSSEN

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VIA FACSIMILE 808-521-2279

February 22, 2007

Mr. John Sabas
Moloka'i Properties Limited
745 Fort Street Mall, Ste 600
Honolulu, Hawaii 96813

Dear Mr. Sabas,

Re: La'au Point (HRS 343 DEIS)

I am a full time resident and property owner in the Papohaku Ranchlands and because of the potential negative impacts of the La'au Point development on the quality of my environment, I have reviewed the EIS and offer the following comments for consideration. My comments and questions are posed with the sincere desire for a thoughtful response.

Access Road to La'au Point: The proposed extension of Kaluakoi Road as the only access to the proposed development has the potential to be the most disruptive element of the project. Kaluakoi Road was constructed some twenty plus years' ago, using sub-standard specifications, and has not been adequately maintained. Increased traffic of any magnitude particularly that associated with heavy construction equipment will severely deteriorate an already poor roadway. The project describes extension of the existing access road but does not indicate that improvements will be made to the access road other than within the La'au Point "community". While past discussion implies an improved Kaluakoi Road in total, no such commitment is apparent in the project plan.

Vehicular noise, while addressed as it would affect La'au Point which is uninhabited, has not been considered relative to the thoughtful Papohaku Ranchlands will become and the adverse impact it will have on La'au Point's neighbors. The increased volume and character of vehicles that will access via Kaluakoi Road will present a significant disturbance to residents; with built out projected at 2023, that disturbance is long term. Project statements indicating noise impact would occur only during daylight hours is inaccurate; it is practice here where we live for contractors to arrive at sites at first light. Traffic would actually then be heaviest, and loudest, during early morning hours before daylight, in the rural areas accessed by Kaluakoi Road, the increased, continuous noise would be significantly disturbing.

February 22, 2007/page two

Residents routinely use Kaluakoi Road for walking, jogging, and biking...already dangerous activities given the combination of poorly maintained shoulder areas, inadequately designed road width, current traffic levels and excessive speed; an increase in traffic volume will adversely impact pedestrian safety. Speed limits are not observed and are not enforced because police do not regularly patrol the roads. The increase in traffic will exacerbate already unsafe, and largely ignored, conditions.

It is not clear why an alternative access was not developed using the existing Maunaloa Highway as a feeder to a new La'au Point access road. Where the highway presently ends at Maunaloa Town, one could extend the roadway onto the existing Hale O' Lono access road to a reasonable point where the road would turn toward the ocean into the La'au development. While it likely is more costly to develop a roadway in this way, the economic benefits to Maunaloa Town would offset those initial development costs. Taking the road through Kaluakoi does absolutely nothing to support the economic viability of the established businesses, which are struggling, in Maunaloa. While noise and traffic would increase, the increase would be isolated to non-residential, commercial streets that would benefit from the increased traffic. Development of the roadway beyond the town proper would affect no residential areas. It seems to have the least impact for the most benefit to the community.

Public Safety: I am appalled by the lack of a proposed public safety facility. The plan could require the developer to provide such a facility to address first responder emergencies. It does not. The logic escapes me...La'au would be only 30% occupied at build out and those residents are projected to be older adults...does that mean there is the potential for fewer medical emergencies? The La'au development opens access to shorelines and proposes two public parks. Does that not increase the public availability to the area thereby increasing the potential for recreational related emergencies? An increase in the population of any magnitude, along with the increased public access, increases the probability of traffic, health, life safety, and fire emergencies....the plan simply does not adequately provide for emergent situations involving life threatening events. While the project provides for an alternate emergency road and emergency access roads to the shoreline, the roads have no material effect on emergency response time. From a practical standpoint, the existing distance of the Moana Makani, Papohaku, Ranchlands, Fairway Homes, and Kaluakoi Resort condominiums from the nearest fire station already poses a problem for homeowners and property insurance. Consider the added distance to the new development and its impact on securing insurance at any price.

Water: A clearly complicated and emotional issue, as it is in many states, and obtaining facts is a true challenge. The project proposes diverting a portion of Well 17, Kaluakoi water source, to La'au Point and restricting the use of Well 17 to potable water. The current Kaluakoi distribution would be extended to service La'au Point and "...when customer demand in Kaluakoi warrants, a looped connection from Maunaloa to La'au Point is proposed...which will then supply La'au Point and augment deliveries to Kaluakoi...." Is the proposed "loop" to be part of the initial phase of construction? If not, how would a determination be made as to customer demand and what is the projected time to construct such



February 22, 2007/page three

a loop for additional drinking water once that demand is determined? Can you clearly explain the proposal for obtaining and distributing irrigation water to existing customers in Kaluakoi? The EIS clearly centers on La'au and while the discussion of the Kakalahale Well describes irrigation water distribution, it is not clear that the infrastructure to distribute that water is in place or will be constructed and what, if any, time lag would be created in delivering irrigation water to developed lots in Kaluakoi.

Mandated conservation is critical to the long-term viability of not only La'au Point but to the State of Hawaii. In restructuring water rates, consider structuring rates to recognize commercial uses vis-a-vis residential rates. Transient populations in hotels and condominiums have no vested interest in properties and are most frequently the wasters of our resources. A water rate structure recognizing the inherent waste of commercial properties would support maintaining and improving the delivery system in a more equitable way. Individual properties or homeowners rates may also be tiered rates, but at a lower, residential rate. The privately owned water company can learn much by researching conservation methods and incentives employed in mainland states facing water conservation issues and population increase.

I do not believe that the foregoing comments will change the outcome of the final approval of the La'au Point development but perhaps something not previously considered is offered. I look forward to your response.

Sincerely,

Barbara J. Rasmussen

cc: Thomas S. Witten, ASLA
PBR Hawaii, fax 808-523-1402
Anthony Ching, Executive Officer
State Land Use Commission, fax 808-987-3922
Director, Office of Environmental Quality Control
State of Hawaii, fax 808-586-4186
Paul Mardasini, President
West Molokai Association
Papohaku Ranchlands Association

November 1, 2007

Barbara Rasmussen
P.O. Box 256
Maunaloa, Hawaii'i 96770

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mrs. Rasmussen:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). With this letter, we respond to your comments.

Access Road to Lā'au Point

1. *The proposed extension of Kaluakoi Road as the only access to the proposed development has the potential to be the most disruptive element of the project. Kaluakoi Road was constructed some twenty plus years' ago, using sub-standard specifications, and has not been adequately maintained. Increased traffic of any magnitude particularly that associated with heavy construction equipment will severely deteriorate on already poor roadway. The project describes extension of the existing access road but does not indicate that improvements will be made to the access road other than within the La'au Point "community". While past discussion implies on improved Kaluakoi Road in total, no such commitment is apparent in the project plan.*

Response: As previously addressed in Section 4.4 (Roadways & Traffic) of the Draft EIS, roadways within Lā'au Point will be designed to County Standards and will have to be maintained to those same standards. Kaluakoi Road outside Lā'au Point would also have to be maintained and any damages as a result of construction traffic will be repaired.

2. *Vehicular noise, while addressed as it would affect La'au Point which is uninhabited, has not been considered relative to the thoroughfare Papohaku Ranchlands will become and the adverse impact it will have on La'au Point's neighbors. The increased volume and character of vehicles that will access via Kaluakoi Road will present a significant disturbance to residents, with build out projected at 2023, that disturbance is long term. Project statements indicating noise impact would occur only during daylight hours is inaccurate; it is practice here where we live for contractors to arrive at sites at first light. Traffic would actually then be heaviest and loudest, during early morning hours before daylight. In the rural areas accessed by Kaluakoi Road, the increased, continuous noise would be significantly disturbing.*

Response: As previously addressed in Section 4.4 (Roadways & Traffic) of the Draft EIS, relative to early morning construction activities, a construction management plan and/or conditions will limit the hours of construction. Construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures to minimize construction-related noise will comply with all Federal and State noise control regulations. Construction vehicles will also be equipped with mufflers.

3. Residents routinely use Kahuakoi Road for walking, jogging, and biking... already dangerous activities given the combination of poorly maintained shoulder areas, inadequately designed road width, current traffic levels and excessive speed; an increase in traffic volume will adversely impact pedestrian safety. Speed limits are not observed and are not enforced because police do not regularly patrol the roads. The increase in traffic will exacerbate already unsafe, and largely ignored, conditions.

Response: To address your comment above in the Final EIS, the following statement will be added to Section 4.4 (Roadways & Traffic):

Relative to pedestrian and recreational activities along Kahuakoi Road, consideration will be given to providing sufficient shoulders along both sides that can be used by pedestrians and bicyclists.

4. It is not clear why an alternative access was not developed using the existing Maunaloa Highway as a feeder to a new La'au Point access road. Where the highway presently ends at Maunaloa Town, one could extend the roadway onto the existing Hale O Lono access road to a reasonable point where the road would turn toward the ocean into the La'au development. While it likely is more costly to develop a roadway in this way, the economic benefits to Maunaloa Town would offset those initial development costs. Taking the road through Kahuakoi does absolutely nothing to support the economic viability of the established businesses, which are struggling, in Maunaloa. While noise and traffic would increase, the increase would be isolated to non-residential, commercial streets that would benefit from the increased traffic. Development of the roadway beyond the town proper would affect no residential areas. It seems to have the least impact for the most benefit to the community.

Response: To address your comment above in the Final EIS, the following statement will be added to Section 4.4 (Roadways & Traffic):

Regarding an option of having the access road go directly from Maunaloa Town to La'au Point, this alternative was rejected because the remaining parcel area mauka of the La'au Point residential community will be open to subsistence hunting and the area is also designated for "Rural Landscape Reserve." An access road cutting through hunting lands would disrupt hunting there and spoil the landscape views from the Maunaloa Highway.

An access road from Maunaloa was not included in the plan in order to minimize the impacts. Construction of a new roadway typically has major impacts on drainage, flora, and fauna. In addition, extending the road from Kahuakoi meets community concerns affecting increased traffic and use of the area for subsistence activities and depletion of the resources.

Public Safety

5. I am appalled by the lack of a proposed public safety facility. The plan could require the developer to provide such a facility to address first responder emergencies. It does not. The logic escapes me...La'au would be only 30% occupied at build out and those residents are projected to be older adults...does that mean there is the potential for fewer medical emergencies? The La'au development opens access to shorelines and proposes two public parks. Does that not increase the public availability to the area thereby increasing the potential for recreational related emergencies? An increase in the population of any magnitude, along with the increased public access, increases the

probability of traffic, health, life safety, and tire emergencies.the plan simply does not adequately provide for emergent situations involving life threatening events. While the project provides for an alternate emergency road and emergency access roads to the shoreline, the roads have no material effect on emergency response time. From a practical standpoint the existing distance of the Moana Makani, Papohaku Ranchlands, Fairway Homes, and Kahuakoi Resort condominiums from the nearest fire station already poses a problem for homeowners and property insurance. Consider the added distance to the new development and its impact on securing insurance at any price.

Response: Currently, access to the area is via unimproved and dirt roads. Although previously addressed in Section 4.10.3 (Fire Protection) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

To provide increased fire protection at La'au Point until there is a fire station within the five road miles required to have a favorable fire insurance rating as determined by the Hawaii Insurance Bureau, the La'au Point Covenants, Conditions, and Restrictions (CC&RS) will require all residential structures to have sprinkler systems meeting standards specified in the Fire Code. The Fire Department does not require MPL to provide a fire station on the West End for La'au Point.

Fire and rescue emergency services will be able to access La'au Point and the shoreline from the new paved access road from Kahuakoi and the existing emergency access dirt road from Hale O Lono Harbor, with access to the shoreline through the subdivision at designated locations. Emergency responders can also use an existing emergency access dirt road from Hale O Lono Harbor and do not have to go all the way to Kahuakoi to access La'au Point.

Water

6. A clearly complicated and emotional issue, as it is in many states, and obtaining facts is a true challenge. The project proposes diverting a portion of Well 17, Kahuakoi water source, to La'au Point and restricting the use of Well 17 to potable water. The current Kahuakoi distribution would be extended to service La'au Point and "...when customer demand in Kahuakoi warrants, a looped connection from Maunaloa to La'au Point is proposed, which will then supply La'au Point and augment deliveries to Kahuakoi... Is the proposed "loop" to be part of the initial phase of construction? If not, how would a determination be made as to customer demand and what is the projected time to construct such a loop for additional drinking water once that demand is determined? Can you clearly explain the proposal for obtaining and distributing irrigation water to existing customers in Kahuakoi? The EIS clearly centers on La'au and while the discussion of the Kakalahale Well describes irrigation water distribution, it is not clear that the infrastructure to distribute that water is in place or will be constructed and what, if any, time lag would be created in delivering irrigation water to developed lots in Kahuakoi.

Response: Although previously addressed in Section 4.9.2 (Water) of the Draft EIS, the following revision will be added in the Final EIS as clarification:

The "loop" will not be built during the initial phase of construction. It will be added as demand warrants. Once the capacity of the existing line based on calculated demand, using accepted County standards, is reached, the loop will be constructed. Since potential build-out is gradual, it is estimated that construction will not be required for 5-10 years.

Barbara Rasmussen
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

7. *Mandated conservation is critical to the long-term viability of not only La'au Point but to the State of Hawaii. In restructuring water rates, consider structuring rates to recognize commercial uses vis-à-vis residential rates. Transient populations in hotels and condominiums have no vested interest in properties and are most frequently the wasters of our resources. A water rate structure recognizing the inherent waste at commercial properties would support maintaining and improving the delivery system in a more equitable way. Individual properties or homeowners rates may also be tiered rates, but at a lower, residential rate. The privately owned water company can learn much by researching conservation methods and incentives employed in mainland states facing water conservation issues and population increase.*

Response: We appreciate your thoughts on the role of water rates in affecting water conservation. As was noted in the Water Plan (see Appendix P of the Draft EIS), Moloka'i Public Utilities, Inc. (MPUI), which operates the Kalaiko'i water system, implemented a conservation rate that has had immediate measurable effect on decreasing water usage. As a regulated public utility, MPUI's rates are subject to approval by the State Public Utilities Commission.

Water rates will be variable depending on the type (potable and non-potable) and the user. A structure will be developed that penalizes overuse and promotes conservation whether it is commercial or otherwise.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Sincerely,




Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

Blossom Brown
2465 Ala Wai Blvd. #802
Honolulu, HI 96815

February 23, 2007

 PBR Hawaii
1001 Bishop Street
ASB Tower, Suite 650
Honolulu, HI 96813
Attention: Thomas Witten
Telephone: (808) 521-5631
Fax: (808) 523-1402

Molokai Properties Limited
745 Fort Street Mall, Suite 600
Honolulu, HI 96813
Attention: Peter Nicholas and John Sabas
Telephone: (808) 534-9502
Fax: (808) 521-2279

State Land Use Commission
PO Box 2359
Honolulu, HI 96804
Attention: Anthony Ching
Telephone: (808) 587-3822
Fax: (808) 587-3827

Office of Environmental Quality Control
235 S. Beretania St., Suite 702
Honolulu, HI 96813
Fax: (808) 586-4185

Dear Mr. Thomas S. Witten,

I am a student at The University of Hawaii at Manoa. I am writing to you today in regards to the La'a Point Project. I am opposed to this project for many reasons. The main issue I will be addressing is the Cultural concerns of the residents of Moloka'i.

I am going to begin with saying that La'a Point is culturally very important to the Hawaiian people. This land is one of the only areas in the Hawaiian Islands that have not been touched. There is a huge issue with the development of La'a Point, because even most Moloka'i locals have never even seen La'a Point with which has such unique cultural qualities.

In Davianna McGregor's book "Living Hawaiian Culture" she speaks about her visit to Moloka'i and mentions some very interesting and significant information regarding cultural traits. In Davianna's book she spoke of her meetings with members of a group who protect the Hawaiian land. Davianna mentions a lot of political and economic change throughout the years on the island of Moloka'i, which is a major turning point for the Hawaiian's living on Moloka'i. Davianna worked with a task force to produce a random sample survey in the year 1993 on the Moloka'i community. The survey dealt with the extent at which Moloka'i residents felt survival activities were important. This lead to focus groups with many fishermen, hunters and gatherers on the island, particularly those in close to La'a Point, which ultimately lead to Davianna's cultural impact study. This study shows the Moloka'i residents commitment to community process and their community involvement. After the survey had been administered and the focus groups were called into action, Davianna and partner Jon Matsuoka came to the conclusion that most of the Native Hawaiian residents depended on survival methods like hunting and fishing to eat, which brings me to my point, if the fishing grounds are not kept private to the natives on the island than soon after their priceless land will be invaluable to them because the fish will be depleted for over fishing.

Also, mentioned in Davianna's book is that in the year 1998 Moloka'i was on a mission to boost their own economy. In order to do this the community and the government came to a joint resolution so that Moloka'i was offered 250,000 dollars per year for ten years. The grant was given, but the Hawaiians also wanted the government to respect their 'aina and nurture it. It is a well-known belief that Hawaiians Malima'ana their land, which means they care for the land and the land will care for them in return. Knowing that Moloka'i residents culture is strong and the community wants what's best for all their land and perseverance of it, then it would be wrong to be accepting of the project that Moloka'i Properties Limited is proposing. Even though MPL is donating 26,000 acres of land out of the 65,000 they purchased, is not the focus. MPL is trying to win over some residents of the community with this offer, but at the same time MPL is also avoiding the real issue. Which is preserving the rest of the land, especially La'a Point. Since the 26,000 acres of land that they are preserving cannot be built on regardless, then this is their way of trying to get the best deal without thinking of the cultural impacts it has on the rest of the islands locals. The community right now is still actively trying to shape its own community and plan for their own future.

Under the Native Hawaiian view their cultural resources are to be nurtured since their resources are limited. Since most of the Moloka'i people trace their time on the island back to the distant past, they feel as though the island is an essential part of their inherited family. And since the Moloka'i people are very spiritual people their belief for centuries is that they have full and sovereign control of their land. Moloka'i is known as "the last Hawaiian island" and the community intends to keep it that way. In addition to preserving the land for the purpose of the Hawaiian people, it is also very well known, especially before western contact, that Moloka'i is the "land of plenty" because it has remained untouched, which gives the island the ability to grow and cultivate numerous amounts of crops. With Moloka'i's protected reefs, they have also gained a reputation for the fattest fish around. Their land is so untouched and productive that it gained popularity for these reasons. So by the development of these luxury homes on prime coastline where

the fish and reef are so plentiful, will end up depleting many resources and ruining the only untouched Hawaiian island left.

Understanding what taking too much from the land means, may help the people of MPL realize that most of the cultural beliefs are tied to spiritual ones. For example they believe that La'au Point is a "special place of spiritual mana and power" (Environmental Impact Statement for La'au Point, pg. 57) which deserves respect. Hawaiians have a lot respect for their land and the common belief is that all elements of life need to be balanced and if everything is not balanced then their whole system is not working properly. Basically, their idea is that you can share the land but not take too much from it. The people of MPL also need to realize that Hawaiians are hunters and fisherman and enjoy these activities. The coastline that MPL will be building on is prime locations for their activities and this will be taken away from the locals.

In the draft (Environmental Impact Statement for La'au Point, pg.'s 55-56) it states that community meeting were held to discuss all the cultural resource issues on Moloka'i.

The people who were interviewed said that "the project will spoil the experience of fishing in what is now isolated and a spiritual area (La'au Point)." The main concern of the community is that the La'au Point Project will greatly impact and wipe out their traditions of gathering and fishing. The fisherman and crab gatherers need silence in order to collect their crabs and fish.

A huge concern is that cultural sites will be abolished during the restructuring process of the land with MPL's project. The dunes hold burials and famous cultural sites, which might be destroyed. Even bigger of an issue are all the native plants, native species like the sea turtles and monk seal population that may deplete due to the development. These issues are extremely important and should be looked at as well.

Overall after the cultural impact assessment and after all the cultural meetings had occurred the end result was that no one in the community expressed any enthusiasm in regards to the project development. Furthermore, the new residents of this new community may not understand the Moloka'i lifestyles, which poses as a problem trying to integrate two very different lifestyles and cultures. The beautiful land at La'au Point should be kept untouched and remain special and respected. The natural resources need to flourish and the physical beauty of the land should be unaltered.

Sincerely,

Blossom J. Brown



November 1, 2007

Blossom Brown
2465 Ala Wai Boulevard, #802
Honolulu, Hawai'i 96815

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Brown:

Thank you for fax dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments on cultural resources and Professor McGregor's research. Below, we respond to your concerns.

1. *I am going to begin with saying that La'au point is culturally very important to the Hawaiian people. This land is one of the only areas in the Hawaiian Islands that have not been touched. There is a huge issue with the development of La'au point, because even most Moloka'i locals have never even seen La'au Point with which has such unique cultural qualities. . . . if the fishing grounds are not kept private to the natives on the island than [sp] soon after their priceless land will be invaluable to them because the fish will be depleted for over fishing.*

Response: Given that the area proposed for development has been the private property of Molokai Ranch, the primary cultural practitioners of the area are current and former Molokai Ranch cowboys and employees, their 'ohana and longtime kama'āina residents of the Maunaloa community. The *Community-Based Master Land Use Plan for Molokai Ranch* (provided as Appendix A of the Draft EIS, and hereafter referred to as "Master Plan") outlines cultural principles and policies for the establishment and management of a Cultural Conservation and Subsistence Management Zone, including areas of the proposed Lā'au development. In addition, the Shoreline Access and Management Plan (to be provided in the Final EIS) provides for its implementation by a committee that will include representatives of cultural practitioners of the area including Ranch employees, Maunaloa residents, persons with ancestral ties to the south and west coasts, well as the homeowners, and the Moloka'i Land Trust which is comprised of members from the larger community.

The cultural impact assessment (Appendix F of the Draft EIS) provides details of the plan to protect subsistence fishing and gathering from p. 118 through 121. In addition, Access will be managed to protect subsistence resources as discussed in Chapter 5.2 - pp. 116 - 118.

2. *Since the 26,000 acres of land that they are preserving cannot be built on regardless, then this is their way of trying to get the best deal without thinking of the cultural impacts it has on the rest of the islands locals. The community right now is still actively trying to shape its own community and plan for their own future.*

Response: It is not true that the 26,200 acres of land that is being donated to the Moloka'i Land Trust is otherwise safe from development. Moreover, these lands are vulnerable to use for

Ms. Blossom Brown

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 2 of 5

commercial activities, such as for ecotourism, as they have been in the past. As previously addressed in Section 2.4 of the Draft EIS, the community was involved throughout a lengthy planning process involving 160 meetings. A broad cross section of 1,000 community members sat in on committee meetings in their area of interest. Meetings were announced, open to the public, and aired on public television (Akaku Channel 53).

We understand there is both a lack of trust for the Ranch and the sentiment that the Ranch should simply give title to the 26,200 acres and control over the 24,950 acres of agricultural and open space easements without any compromise expected of the community. However, we believe the Master Plan is a thoughtful, comprehensive, and reasonable compilation of many community members' visions for Moloka'i. Other than this particular project for Lā'au Point, other components of the Master Plan are supported by most members of the community (see Section 2.1.7 of the Draft EIS).

3. *The main concern of the community is that the Lā'au Point Project will greatly impact and wipe out their traditions of gathering and fishing. The fisherman and crab gatherers need silence in order to collect their crabs and fish.*

Response: We acknowledge your comments about the loss of subsistence; however, we respectfully disagree. As discussed in Section 2.3.7 of the Draft EIS, an agreement between MPL and the Moloka'i Land Trust/EC will ensure that the Lā'au Point project promotes the importance of maintaining subsistence activities in the Conservation District areas and other protected resource areas. The Shoreline Access Management Plan will be managed and enforced by the Land Trust.

Section 4.5 of the EIS addresses noise impacts and mitigation measures. Although there will be short-term construction-related noise during construction, construction activities will comply with all Federal and State noise control regulations, such as Chapter 11-46, HAR (Community Noise Control). Construction vehicles will also be equipped with mufflers. In addition, the development will occur at least 250 feet mauka of the shoreline. The distance and existing kiawe vegetation between the shoreline and the development area will provide a significant buffer zone for project noises.

Extraordinary measures will be taken by the Moloka'i Land Trust in cooperation with the homeowners, to work with the longtime residents of Maunaloa and longtime ranch cowboy and employee families to protect subsistence hunting and fishing. These measures will also protect the quality of the cultural sites, complexes, and resources.

During the planning process that resulted in the Master Plan, the persistence of subsistence on Moloka'i was of central significance. The Cultural Impact Assessment (Appendix F of the Draft EIS) refers to the measures outlined in the Master Plan to protect subsistence fishing and gathering on pp. 113, 118 – 121. In addition, access will be managed to protect subsistence resources as discussed in section 5.2, pp. 116 - 118.

Ms. Blossom Brown

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 3 of 5

4. *A huge concern is that cultural sites will be abolished during the restructuring process of the land with MPL's project. The dunes hold burials and famous cultural sites, which might be destroyed. Even bigger of an issue are all the native plants, native species like the sea turtles and monk seal population that may deplete due to the development. These issues are extremely important and should be looked at as well.*

Response: As discussed in Section 2.3.1 (Protected Areas) of the Draft EIS, the roadways and residential lots avoid cultural and archaeological sites. The existing State Conservation District, which includes the Lā'au Point shoreline, will be expanded from 180 acres to 434 acres (an increase of 254 acres). The Moloka'i Land Trust will manage the Conservation District lands.

No dunes or endangered species habitats will be destroyed as a result of the residential development. As shown in Figure 12 of the Draft EIS, there are no dune lands in the project area. As discussed in Section 3.6 of the Draft EIS, the majority of the native plant communities are located in the sandy beach and rocky shoreline areas, where no development is proposed. In fact, the project proposes to increase the Conservation District by 254 acres along the shoreline and related natural resource areas. The Conservation District areas at Lā'au Point will be managed by the Land Trust to ensure appropriate protocol is established for the protection of rare and endangered species in the shoreline habitats.

In addition to the protection of habitats by the expanded Conservation District shoreline area, there will be a large setback, as previously discussed in Section 2.3.1 (Protected Areas) of the Draft EIS. The lot boundaries will be set back at least 50 feet behind the current Conservation District, which is approximately 150 to 200 feet inland from the shoreline. Therefore, lots will be at least 250 feet from the designated shoreline. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet. With this large setback, as previously discussed in Section 3.7 (Fauna) of the Draft EIS, the endangered Hawaiian monk seal habitat will not be encroached upon by the project.

The Master Plan provides for the protection of all of the cultural sites during the construction process. During and after the construction phase access to the archaeological and cultural sites will be managed so as to protect the cultural integrity of the sites as well as to provide access to those who have a connection to and kuleana for the sites. As at present, access to most of the sites will be by foot rather than by vehicle in order to protect the sites. Residents will be educated about the cultural significance of the sites and the protocols which will protect the sites. The resource managers who will live on site will monitor and enforce the cultural guidelines and protocols. Native Hawaiian practitioners and kama'āina residents of the Kaluaoko'i ahupua'a will be consulted.

5. *Overall after the cultural impact assessment and after all the cultural meetings had occurred the end result was that no one in the community expressed any enthusiasm in regards to the project development. Furthermore, the new residents may not understand the Moloka'i lifestyle, which poses as a problem trying to integrate two very different lifestyles and cultures. The beautiful land at Lā'au Point should be kept untouched and remain special and respected. The natural resources need to flourish and the physical beauty of the land should be untainted.*

Ms. Blossom Brown
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 5

Response: The Cultural Impact Assessment concluded that although the overall Master Plan is not a perfect plan, it still "truly a grassroots community plan which represents a historic good faith effort on the part of Molokai Properties Limited and Ke Anupuni Lokāhi-Moloka'i Enterprise Community to create sustainable economic solutions that will protect the cultural integrity of a unique Hawaiian island community. This monumental effort deserves serious reflection, deliberation and endorsement" (Appendix F, page 154).

In responding to your comment regarding the "beautiful land at Lā'au Point [that] should be kept untouched and remain special and respected," it is first important to note that Lā'au Point, itself, can be considered a significant cultural property. Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lae O Ka Lā'au is within the 51 acres owned by the federal government. This property will not be disturbed or developed on by the proposed project.

The west and south shorelines adjacent to Lā'au Point, Keawakalani on the southeast and Kamāka'ipō on the northwest, is where the proposed development is projected. According to the archaeological surveys and ethnographic documents, there were settlement clusters around protected bays, such as at Kapukuwahine and Kanalukaha on the south shore. In addition, the Master Plan identified Kamāka'ipō as an important cultural and spiritual place.

Molokai Ranch has applied to the State Land Use Commission to re-district these areas from Agricultural to Conservation district in order to protect the significant settlement areas and clusters along the west and south shores adjacent to Lā'au Point, notably at Kamāka'ipō, Kapukuwahine, and Kanalukaha. These proposed conservation zones will be gifted to the Moloka'i Land Trust.

A Shoreline Access Management Plan, included in the Final EIS as an appendix, sets out management guidelines for the Lā'au shoreline area, which includes an expanded conservation district zone between the makai boundary of the proposed residential lots and the shoreline, and two parks at the culturally significant Kamāka'ipō Gulch and Pu'u Hakina areas. Access will be limited to foot travel in these areas to limit the amount of traffic and disturbance.

In addition, a cultural management plan will guide protection, access to and use of the cultural and spiritual sites. These cultural guidelines are provided on pages 116-117 of the Cultural Impact Assessment report (provided as Appendix F of the Draft EIS).

Further, as previously discussed in Section 2.3 (General Project Description) of the Draft EIS, the target market for Lā'au Point are people who respect the unique character of the site and of Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. The intent for Lā'au Point is for it to be a community for people that demonstrate the value of mālama'āina (caring for, protecting, and preserving the land and sea). The project "must be the most environmentally planned, designed, and implemented large lot community in the State." This statement precedes the covenant document developed by the Land Use Committee that will place many restrictions

Ms. Blossom Brown
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 5 of 5

on lot owners. Lā'au Point will be unlike any other community in Hawai'i. Therefore, it is expected that Lā'au Point lot buyers will want to familiarize and integrate themselves into the Moloka'i lifestyle.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII



Thomas S. Witten, ASLA
 President
 POB Hawaii
 1001 Bishop St.
 ASB Tower, Suite 600
 Honolulu, HI 96813

1/7/07

Dear Sir,
 I am writing this letter to request an extension of the La'au Pt. Environmental Impact Statement. I am particularly interested in this project and would like to review the report. The EIS is almost 1000 pg. and it was issued during the Christmas & New Year holiday.

I feel the time allotted is too short for me and other individuals to review and comment. I appreciate your attention on this matter.

Please respond regarding this very important matter

Manolo
 Bridget Mowat
 PO Box 615
 Kaunakakai, HI

pinkie@molokaienvi.net

January 16, 2007

Bridget Mowat
 P.O. Box 315
 Kaunakakai, Hawaii 96748

SUBJECT: La'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Ms. Mowat *ASLA Bridget*

We have received your request for an extension of the public comment period for the La'au Point Draft Environmental Impact Statement (EIS).

Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

State law (Chapter 343, HRS) requires a 45-day public comment period for Draft EISs. The original 45-day public comment period for the La'au Point Draft EIS is from December 23, 2006 to February 6, 2007.

The extension to February 23 will provide for a public comment period of 63 days.

We look forward to your comments on the La'au Point Draft EIS and your participation in this public review process.

Sincerely,

John Sabas

John Sabas
 General Manager of Community Affairs
 Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
 Genevieve Salmonson, Office of Environmental Quality Control



January 16, 2007

Bryson Santiago
c/o Walter Ritte
P O Box 486
Kaunakakai, HI 96748

SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Mr. Santiago *Bryson*

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

State law (Chapter 343, HRS) requires a 45-day public comment period for Draft EISs. The original 45-day public comment period for the Lā'au Point Draft EIS is from December 23, 2006 to February 6, 2007.

The extension to February 23 will provide for a public comment period of 63 days.

We look forward to your comments on the Lā'au Point Draft EIS and your participation in this public review process.

Sincerely,

John Sabas

John Sabas
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control

1/9/07

THOMAS S WHITTEN

PLEASE GIVE US A 60 DAY EXTENSION OF THE LAAU POINT EIS PUBLIC COMMENT PERIOD IT WILL BE DEEPLY APPRECIATED.

BRYSON SANTIAGO
The SANTIAGO CHANG

1-9-07
Molokai
Thomas S. Witten ASLA, President
P.O. Box Hawaii
1001 Bishop St
ASB Tower Suite 650, Honolulu 96811

We are asking for a 60 day
extension of the Lā'au Point EIS
Public Comment Period.

We need this time in order to
pursue our investigations of this
situation.

Thank you so much for your
cooperation.

Alola

Carol Hinton

HC1-142
Kaunakakai HI 96748
808-533-5576



January 16, 2007

Carol Hinton
HC1-142
Kaunakakai, Hawaii 96748

SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Ms. Hinton:

We have received your request for an extension of the public comment period for the Lā'au Point Draft Environmental Impact Statement (EIS).

Molokai Properties Limited will extend the deadline for comments from February 6 to February 23, 2007.

State law (Chapter 343, HRS) requires a 45-day public comment period for Draft EISs. The original 45-day public comment period for the Lā'au Point Draft EIS is from December 23, 2006 to February 6, 2007.

The extension to February 23 will provide for a public comment period of 63 days.

We look forward to your comments on the Lā'au Point Draft EIS and your participation in this public review process.

Sincerely,

John K. Sabas
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control



November 1, 2007

Carrie-Anne Kaauwai
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Kaauwai:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We acknowledge comments regarding water.

There is no intent to deny any resident's use of water in order to supply water to the La'au Point development. Indeed, MPL has often reiterated its recognition of DHHL's priority rights to water.

MPL believes that there is ample ground and surface water to meet DHHL's and the County's needs while still supporting MPL's plans for all of its lands. MPL's Water Plan does not adversely affect either DHHL's or the County's ability to develop the water resources they need for future uses.

MPL has committed to using only existing sources, at currently permitted amounts, to meet all of the potable water needs for its current water customers and MPL's future developments proposed under the Master Land Use Plan. A new non-potable source is being proposed. Currently, permitted uses for potable water from Well 17 include more than 600,000 gpd for irrigation uses. When non-potable water from the Kākalahale Well becomes available, those irrigation uses that are now supplied with potable water will utilize the new non-potable source, thus freeing up sufficient potable water to meet the demands of the La'au Point development.

The Kākalahale Well, the proposed new source of non-potable water, is situated where it is unlikely to have a measurable impact on the existing DHHL and DWS wells in Kualapu'u. First, the Kākalahale Well is down- and across-gradient from the DHHL and DWS wells. Second, the Kākalahale Well is approximately 12,200 feet (2.31 miles) away from the DHHL and DWS wells; at that distance, it is unlikely that pumping 1 mgd will create a measurable effect. Third, there are known subsurface intrusives between the Kākalahale and DHHL/DWS well sites, namely Pu'u Kākalahale and Pu'u Luahine, which are barriers to ground water flow.

The Kākalahale Well was developed in 1969 as a drinking water well for the Kaluako'i Resort. However, due to the brackish quality of the water, the well was never put into production. Relative to its distance inland, chlorides of the Kākalahale Well are anomalously high. This anomaly is explained, however, by the presence of upgradient subsurface intrusives, i.e., the subsurface "plumbing" of Pu'u Kākalahale, which function as barriers to normal matuka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
Telephone 808.531.0158 • Facsimile 808.571.2279

To Whom It May Concern:

Aloha! My name is Carrie-Anne Kaauwai attending Molokai High School. This a letter in regards to La'au Point. This letter is an assignment for my Environmental Science class. We were to write about how we feel and ask a few questions on La'au Points development. We were also assigned to pick out an article about La'au Point, read it, and write a summary about what we read.

My thoughts about this plan doesn't sound good to me because there will be a lot of places and homesteads here on Molokai that will have to preserve water for La'au Point's development. I also thought that this was a scam because it's like telling people how to use their water when their not the one's paying for the water bills. I think that they should just leave La'au alone.

My article that I chose to read was about water. It talked a lot about where it goes and where water comes from. This article states that water that's not being used for the right thing is just a waste of water.

My questions that I have for you right now is: How can people survive without water if La'au Points development goes through? How long will this preserving water thing last if the development ever happens? Last question is Will this ever happen again?

Right now I would like to take this time to say thank you for going out of your way and reading this letter that I wrote.

Thank you once again,
Mahalo and Aloha.

Carrie-Anne Kaauiwai
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

Carrie-Anne Kaauiwai
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 3

Kākalahale Well, also function to limit the effect of pumping the Kākalahale Well on other wells upgradient of the intrusives, such as the DHHL and DWS wells in Kualapu'u.

Additionally, it is highly unlikely that withdrawing 1 mgd from the Kākalahale Well will have an adverse impact DHHL's ability to access its reservation amount from the Kualapu'u aquifer. For DHHL to develop its 2.905 mgd reservation in the Kualapu'u aquifer, new and appropriately spaced wells east of the existing DHHL/DWS well field will be required. All of these new wells will be upgradient of the known subsurface intrusives, Pu'u Kākalahale and Pu'u Luahine. These subsurface intrusives create a barrier to groundwater flow, benefiting wells that are upgradient of the intrusives and adversely impacting the wells downgradient of the intrusives. They also limit the impact that wells on one side of the intrusives have on wells on the other side of the intrusives.

The Kākalahale Well will be down- and across-gradient, and on the downstream side of known intervening intrusive structures, from any wells that DHHL is likely to develop to access any part of its 2.905 mgd reservation. Therefore, an adverse impact on future DHHL wells is highly unlikely.

Additionally, desalination is another alternative source of water that becomes increasingly viable with technological advances. However, it is not yet economical because of the high energy uses of current systems.

To ensure water availability to all, MPL, DHHL, and Maui County DWS are working cooperatively to coordinate future water development plans with the assistance of the USGS. It is anticipated that by proper placement of wells, the needs of DHHL, the County and MPL for the foreseeable future can all be met at reasonable costs to the respective parties.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.
Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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Catherine Wharton
46-144 Hihimana Street, Kaneohe Hawaii i 96744
whartonc@hawaii.edu

February 21, 2007

PBR Hawaii
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Molokai Properties Limited
745 Fort Street Mall, Suite 600
Honolulu, HI 96813
Attention: Peter Nicholas and John Sabas
Telephone: (808) 534-9502
Fax: (808) 521-2279

State Land Use Commission
PO Box 2359
Honolulu, HI 96804
Attention: Anthony Ching
Telephone: (808) 587-3822
Fax: (808) 587-3827

Office of Environmental Quality Control
235 S. Beretania St., Suite 702
Honolulu, HI 96813
Fax: (808) 586-4185

Dear Messrs Nicholas, Witten and Sabas:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) that was prepared for La'au Point, West Molokai i, County of Maui.

I write to you as a member of Kāko'o 'Ōhiwi and as a resident of the state of Hawai'i to urge you to stop any further plans to develop along La'au Point. Developing along La'au Point would have a damaging affect on the marine life which inhabit the area, more specifically, the Hawaiian monk seal population.

The draft environmental impact statement prepared for La'au Point states on page 44 that, "Monk seals are known to visit deserted beaches, or beaches not heavily used by people." What makes La'au Point such a thriving habitat for the monk seals is that it is rarely visited by humans. Residential development along La'au Point would undoubtedly increase the population and the number of people using the beach for recreation, regardless of what type

of rules or regulations are planned to be enforced. This in turn would decimate the Hawaiian monk seal population.

The monk seal is only one of two mammals that are endemic to Hawai'i. Its population is estimated somewhere between 1,200 and 1,500 which classifies them as an endangered species. They are extremely sensitive to intervention by humans but they also "...are genetically tame and easily approached.... Unfortunately, this trait has proven to be one of the major factors leading to the population decline of the species" (<http://www.enrtrust.org/wildlife/seals.html>). The only way to protect the monk seals is to enjoy them from a distance and development along La'au Point would not give them the distance and solitude which they need to survive.

There are many laws associated with monk seals that were created in an effort to save the population. Although the plan to develop along La'au Point tries to work within these laws, I am not convinced that it is enough distance to leave the monk seals undisturbed. The lot line that is planned to be set back 250 feet from the designated shoreline (plus additional boundaries), doesn't take into account an increase in population and facilitated access to the beaches. A dramatic increase in the number of beach users would disturb the monk seal population and their habitat.

With an increase in people also comes an increase in litter and there is a high chance that runoff could enter the ocean during development and construction. There are many other factors not addressed that would also affect the monk seal population and their habitat, which simply cannot be fixed or solved by designating a specific lot line.

In addition to natural beauty and a thriving marine life, La'au Point has a rare population of endemic Hawaiian monk seals and it would be a shame if we lost them forever.

Sincerely,



Catherine Wharton



Catherine Wharton
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

November 1, 2007

Catherine Wharton
46-144 Hillinama Street
Kaneohe, Hawai'i 96744

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Wharton:

Thank you for letter dated February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments and concerns about the Hawaiian monk seal population.

We consulted with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service about the monk seal population at Lā'au Point. The shoreline access management plan (SAMP) contains a plan and recommendations developed in consultation with the National Oceanic and Atmospheric Administration (NOAA) Monk seal program and elements were taken directly from their draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006).

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily.

The established mitigation measures for protecting hauled-out monk seals have been generally effective elsewhere in the Main Hawaiian Islands, and this segment of the monk seal population appears to be increasing. Prohibition of domestic animals from the shoreline may be of greater significance in limiting behavioral disturbances.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding monk seals, Section 3.7 (Fauna) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.7 (Fauna)."

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
Telephone 808.531.0158 • Facsimile 808.571.2279

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.
Sincerely,

Peter Nicholas
President and CEO
Molokai Properties Limited

Attachment: Revised Section 3.7 (Fauna)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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To whom it may concern,

My name is Chantey-Charlene Uahinui. I'm a 12th grade student at Molokai High School, enrolled in the environmental Science class. My assignment is to do research on the water limitation on Molokai if the development of La'au Point took place. My main concern is the water issue and how it'll affect the people of Molokai.

Molokai's water is supplied by an aquifer which means there's fresh water on the top than there's brackish in the center and salt water at the bottom. Molokai Ranch states that by developing La'au Point majority of the water will be taken from the center part of the aquifer which would be the brackish. I'm concern is that eventually as the brackish water decrease soon the salty water will reach the fresh water and the fresh water will soon be brackish.

Personally my main concern is the water. I know that water takes a while to reach the aquifer and by taking so much water from the aquifer to supply rich billionnaires that shouldn't be the reason why Molokai people will have to suffer in the end with no water.

Thanks for taking the time to read my letter. I hope you understood the way I felt and why.

Sincerely,

Chantey - Charlene Uahinui

November 1, 2007

Chantey-Charlene Uahinui
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Uahinui:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We acknowledge comments regarding water.

You have described a typical basal aquifer system. However, not all basal aquifers are typical. On the western side of Molokai, most of the basal aquifers do not have a potable water lens overlying the salt water with a brackish transition zone in between. Instead, brackish water is encountered at the uppermost layer of the lens. This is the situation found at the Kālahale Well site. The Kālahale Well was drilled in 1969 to provide drinking water to the Kālahale Well Encountering brackish, instead of potable, water was unexpected and indicates a hydrogeologic anomaly. Withdrawing brackish water from the Kālahale Well will not result in a situation where upcoming would contaminate a potable water lens.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS. Sincerely,

Peter Nicholas
President and CEO
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

Chaney-Charlene Uahimui
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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FEB 22 2007

STATE OF HAWAII
LAND USE COMMISSION

Chase will

MHS student

Period 7

- Will local people able to by small pieces of land?
- The most important thing is will there able to be enough water for la'au point and the rest of the island?

To whom I may concern,

My name is Chase Will I live in Kalae and I am a part time mechanic and carpenter. I go to Molokai High School and I'm in the 11th grader and I'm writing from Kumu Mahinahou's period 7 Environmental Science class.

The reason I'm writing to is I just wanted to ask you a few questions about La'au point project because I'm a little curious and I want to hear the 2 sides of this story. I already heard the people who don't support it over the T.V, news paper and word of every body says about LA'AU. I want to here your opinion why you support.

Here the questions I wanted to ask you guys.

- What are you guys going to do if construction workers who stumble over or discover it discover any burial sites?
- Will you bring in workers from other islands or will you guys hire workers on Molokai to do the job?
- Will la'au bring more jobs to the community?
- If parks are built, will the ranch let local's camp or hang out there?
- If la'au is built can locals still fish and hunt there with out disturbing anybody's?

Thank you for reading this letter and the questions, I don't know if you guys were asked these question before but thank you for taking time and reading it.

From Chase K. Will

MHS School

2/1/07

Chase K. Will



November 1, 2007

Chase Will
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawaii 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Chase:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments below.

1. *What are you guys going to do if construction workers who stumble over or discover it discover any burial sites?*

Response: As stated in the archaeological Burial Treatment plan of (Appendix E of the Draft EIS), construction will be planned to avoid any burials or suspected burials recorded in previous studies and during the supplemental road corridor survey. Therefore, it is very unlikely that any burials will be disturbed. Should it prove extremely difficult to plan around a possible burial, then (as a last resort) that feature may be tested to determine its actual function. If it is in fact a human burial, then it will be covered, and preserved in place. Human remains encountered during such a test will not be removed, photographed, or collected.

2. *Will you bring in workers from other islands or will you guys hire workers on Molokai to do the job?*

Response: Our first choice is to hire Moloka'i residents; however, if there are not enough Moloka'i residents available, we will have to hire from off-island.

3. *Will Lā'au bring more jobs to the community?*

Response: As discussed in Section 2.1.6 of the Draft EIS, the goals of EC Project #47: the community-based master land use plan for Molokai Ranch's lands, was to create new employment opportunities and affordable housing options for Moloka'i residents, as well as provide them with more control of their future.

As discussed in Section 4.8.4 of the Draft EIS, the re-opening of the Kaluako'i Hotel is crucial to revitalizing the Moloka'i tourism economy. Section 4.1.5 of the Plan (Appendix A in the Draft EIS) contains the recommended principles to guide tourism for Moloka'i. The subsequent *Moloka'i Responsible Tourism Initiative: A Community-Based Visitor Plan for Moloka'i* (EC Project #30) provided a five-year plan for sustainable, community-based tourism on Moloka'i. As discussed in these plans, the re-opening of Kaluako'i Hotel and the subsequent revitalization of the tourism industry will provide over 100 jobs for Moloka'i residents. The hotel will provide jobs directly at the hotel, and other small business opportunities will arise through outsourcing

Chase Will
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

various hotel functions such as laundry, gift shop, beach shack, spa, and visitor activities (tours, attractions).

4. *If parks are built, will the ranch let local's camp or hang out there?*

Response: The Shoreline Access Management Plan (SAMP), which has been included in the Final EIS as an appendix, sets forth rules and guidelines for the shoreline parks to be managed by the Land Trust. The SAMP states the following regarding camping:

1. Camping will only be allowed in areas set by the Council that will not impact the cultural or environmental resources of the Managed Area based upon carrying capacity, sanitation, sustainability of the available resources and seasonal variations.
2. Camping is allowed in the Managed Area at the discretion of Resource Manager.
3. Persons wishing to camp on the property will meet all of the requirements for general access and any additional requirements set by the Council or its designee.
4. Campers must sign in and out of the Managed Area.
5. Camping will be on weekends no earlier than Friday or earlier than Sunday, unless Friday or Monday are holidays.

5. *If Lā'au is built can locals still fish and hunt there with out disturbing anybody's?*

Response: Yes. As discussed in Section 2.3.7 of the Draft EIS, an agreement between MPL and the Moloka'i Land Trust/EC will ensure that the Lā'au Point project promotes the importance of maintaining subsistence activities, such as fishing and hunting, in the Conservation District areas and other protected resource areas. The Shoreline Access Management Plan will be managed and enforced by the Land Trust. Perpetual right to subsistence gathering will be noted on the land titles of the areas to be preserved. Protections to subsistence gathering will be specified in the Lā'au Point CC&Rs. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as allow the hiring of resource managers to protect the subsistence lifestyle.

Approximately 40,000 acres of Ranch land, previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the Community-Based Master Land Use Plan for Molokai Ranch for Open Space/Protective Easements. The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. As indicated in their CC&Rs, Lā'au Point buyers must accept that hunting occurs in the broader surrounding area.

6. *Will local people able to by small pieces of land?*

Response: The land will be available for sale to any qualified buyer; local people will be encouraged to buy land at Lā'au.

7. *The most important this is will there able to be enough water for Lā'au point and the rest of the island?*

Response: MPL believes that there is ample ground and surface water to meet current needs while still supporting MPL's plans for all of its lands. The total sustainable yield for groundwater resources on Moloka'i is 81 mgd. For planning purposes, the Moloka'i Water Working Group used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less than 10 mgd is currently used. Additionally, there are 36 perennial streams on Moloka'i, but surface water usage on Moloka'i amounts to an average of about 3 mgd. The issue on Moloka'i is not the lack of water resources but accessibility, as the bulk of the resources are on the eastern side of the island whereas development and large scale agriculture is on the western and central parts of the island.

Nevertheless, MPL is keenly aware that water is our most precious resource, and, therefore, has incorporated into its plans water system improvements to increase efficiencies and decrease system losses and aggressive water conservation strategies to minimize water demands.

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII



To MPL, PBR

Re: Comments pertaining to DEIS

From Cheryl PRITCHARD

PO Box 1235
Kaunakakai, HI, 96748

November 1, 2007

Cheryl Pritchard
P.O. Box 1235
Kaunakakai, Hawaii 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Pritchard:

Thank you for letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. From day one the process was bogus because water and Lā'au were off the table for discussion. In any community planning anywhere water should be the 1st on the list... It is irresponsible to plan a community without consideration of water first. Since the discussion of water wasn't allowed from the start there is no validity in the process when the single source aquifer of Molokai is damaged to the point of no return no amount of hydrology experts arguing in court are going to bring it back.

Response: We acknowledge your comment, but respectfully disagree. On January 28 and 29, 2003, the Conservation Fund convened a meeting of all interested parties at Kulana 'Ōwi. A process was agreed upon and Peter Nicholas outlined what MPL needed from that process to remain viable. At the time, during a discussion of the process, Peter Nicholas said that it was not much use discussing water or the Lā'au development unless the community agreed other major aspects of a Master Plan for the property. We note that this valid process was agreed upon by many of those people who now object to the process.

To reflect this information in the Final EIS, as well as to address other questions and concerns regarding the validity of the community-based planning process, Section 2.5 will be revised as shown on the attachment titled, "Revised Section 2.4 (Community Meetings and Involvement)."

As explained in Section 4.9.2 of the Draft EIS and Chapter 6 of the Community-Based Master Land Use Plan for Molokai Ranch (Appendix A of the Draft EIS), a key feature of the project's water plan is that only existing sources, at currently permitted amounts, will be utilized to meet all of the potable water needs for the project.

In response to your comments regarding "the single source aquifer of Moloka i," as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)." The response to this specific comment is incorporated into the attachment. See the section of the attachment titled, "Molokai's 'Sole Source Aquifer' Designation."

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

My name Cheryl PRITCHARD is listed in the MPL EIS statement as a member of community participating in the 2 year discussions. From day one the process was bogus because water and Lā'au were off the table for discussion. In any community planning any where water should be the 1st on the list. Las Vegas and Los Angeles have drained the Colorado river from Mexico. the Colorado river no longer flows to the gulf, once the water is turned on the development is in existence, detrimental effects occur. It is irresponsible to plan a community without consideration of water first. Since the discussion of water wasn't allowed from the start there is no validity in the process when the single source aquifer of molokai is damaged to the point of no return no amount of hydrology experts arguing in court are going to bring it back.

Cheryl Pritchard

Cheryl Pritchard
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachments:
Revised Section 2.4 (Community Meetings and Involvement)
Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII



Chris Cramer
 <chris.cramer@maryknollschoo
 ol.org>
 01/06/2007 11:14 PM

To luc@dtbedt.hawaii.gov, repccarrroll@Capitol.hawaii.gov,
 senenglish@Capitol.hawaii.gov,
 Governor.Lingle@hawaii.gov
 cc jeamine@hawaii.rr.com, annmarie@hawaii.rr.com

bcc

Subject La'au Point

Land Use Commission
 Department of Business, Economic Development & Tourism
 State of Hawaii
 P. O. Box 2359
 Honolulu, Hawaii 96804-2359

Aloha Mr. Ching and Land Use Commission and Elected Officials,

I writing to express my strong opposition to the proposed development at La'au Point.
<http://luc.state.hi.us/dockets/a06764/molokai/a06764petition1.pdf>

This project is not only a complete breach of the public trust but it also violates the Land Use
 Commission's very motto: <http://luc.state.hi.us/>

1) "The Life of the Land is Perpetuated in Righteousness" means nothing if gated projects such as this are
 approved.

2) This project is completely unsustainable. On an island with a water crisis, why should the little
 remaining water go for hundreds of luxury mansions?

3) In contrast to the Land Use Commission Goals, This creates an Unaffordable and Non Liveable
 Community. Residents on Molokai flat out can not afford these million dollar mansions.

4) Putting hundreds of mansions in a beautiful wilderness area, home to numerous endangered species is
 unfathomable, especially in light of the fact that Molokai is a poor community and lacks the resources to
 fight this project.

5) Molokai residents rely on hunting and gathering in the area to feed their families. This will effectively be
 halted if this project goes through. Hunting between luxury mansions is not a workable plan.

I urge you to uphold current zoning laws that prohibit the proposed development.

Sincerely,

Chris Cramer
chris.cramer@maryknollschoool.org
 5307 # D Kalamiana Ole Hwy.
 Honolulu, Hawaii 96821



November 1, 2007

Chris Cramer
 5307 #D Kalamiana'ole Highway
 Honolulu, Hawai'i 96821

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Cramer:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement
 (EIS). Below we respond to your comments.

1. "The Life of the Land is Perpetuated in Righteousness" means nothing if gated projects such as this
 are approved.

Response: La'au Point will not be a gated community. This is clearly stated in on page 29 in
 Section 2.3.6 of the Draft EIS.

2. This project is completely unsustainable. On an island with a water crisis, why should the little
 remaining water go for hundreds of luxury mansions?

Response: As explained in Section 4.9.2 of the Draft EIS and Chapter 6 of the Community-
 Based Master Land Use Plan for Molokai Ranch (Appendix A of the Draft EIS; hereafter
 referred to as "Master Plan"), a key feature of the project's water plan is that only existing
 sources, at currently permitted amounts, will be utilized to meet all of the potable water
 needs for the project.

MPL believes that there is ample ground and surface water to meet current needs while still
 supporting MPL's plans for all of its lands. The total sustainable yield for groundwater
 resources on Molokai is 81 mgd. For planning purposes, the Molokai Water Working Group
 used 33.5 mgd as the developable yield of potable water on the island. Of the 81 mgd, less
 than 10 mgd is currently used. Additionally, there are 36 perennial streams on Molokai, but
 surface water usage on Molokai amounts to an average of about 3 mgd. The issue on
 Molokai is not the lack of water resources but accessibility, as the bulk of the resources are
 on the eastern side of the island whereas development and large scale agriculture is on the
 western and central parts of the island.

Nevertheless, MPL is keenly aware that water is our most precious resource, and, therefore,
 has incorporated into its plans water system improvements to increase efficiencies and
 decrease system losses and aggressive water conservation strategies to minimize water
 demands.

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
 Telephone 808.531.0158 • Facsimile 808.571.7279

LAN USE COMMISSION
 STATE OF HAWAII
 2007 JAN 18 A 10:52

In response to your comments regarding water issues, as well as to address other questions and concerns received regarding water issues, Section 4.9.2 (Water) in the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

3. *In contrast to the Land Use Commission Goals, This created an Unaffordable and Non Livable Community. Residents on Molokai flat out can not afford these million dollar mansions.*

Response: As discussed in Section 2.1.9 of the Draft EIS, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the Molokai Community Development Corporation (CDC) for future affordable housing development. MPL will also reserve 200 acres around the towns of Kualapu'u and Maaialoa to be made available for community housing. To reflect the above information and further clarify the CDC funding sources from the proposed project, Section 2.1.9 of the Final EIS has been amended as shown:

In addition to land for housing, MPL will gift the CDC with the following assets that can be used for community development:

- A 5-acre parcel in central Kaunakakai zoned light industrial, which will be available for development in 2011 when the lease to the current lessee, the Junior Roping Club, expires.
- A 3.2-acre parcel adjacent to the Community College, which will be sold to the Maui Community College at market value. The proceeds from this sale would go to the CDC, which would add to the organization's funding for community projects such as construction of affordable housing.
- \$100,000 from the sale by MPL of a 5-acre site to the County for a new Kaunakakai Fire Station (contained within the 1,100 site above Kaunakakai), Endowment from the Lā'au Point project as a sustainable form of CDC funding, which will be structured as follows:
 - o A An initial funding of the CDC arises from a net 5 percent of the sale revenue of all 200 lots in Lā'au Point. The value of this revenue is estimated to be \$10 million over five years.
 - o A percentage, yet to be determined, of subsequent revenue when lot-or lot-and-house-is-re-sold. Future and perpetual income for the CDC comes from second and subsequent sale of lots or lots and houses, as a percentage (half a percent) of all future net sale proceeds from sellers of Lā'au Point properties will be diverted for CDC use. This will provide the CDC with a perpetual income. This provision to allocate income from subsequent lot sales will be provided for in the CC&Rs in the form of a perpetual and unchangeable covenant (Master Plan Covenant). The CC&Rs will require the percentage fee to be paid to the CDC at closing directly out of escrow.

4. *Putting hundreds of mansions in a beautiful wilderness area, home to numerous endangered species is unfathomable, especially in light of the fact that Molokai is a poor community and lacks the resources to fight this project.*

Response: Sections 3.6 and 3.7 (pages 42-45) of the Draft EIS discuss the project's impacts and mitigation measures for flora and fauna, including native and endangered species. With this project, the coastal ecosystem and shoreline habitats will continue to be preserved by an

expansion of the Conservation District by 254 acres along the shoreline and related resource areas. This proposed expansion will provide for a total of 434 acres of the project area to be protected in the Conservation District. The Land Trust will be in charge of managing Lā'au Point's Conservation lands.

The residential lots are set back at least 250 feet from the designated shoreline or high water mark. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet.

5. *Molokai residents rely on hunting and gathering in the area to feed their families. This will effectively be halted if this project goes through. Hunting between luxury mansions is not a workable plan.*

Response: The area proposed for development has been privately owned since 1875 and access and hunting has been limited to the owners, shareholders, cowboys, employees of the Ranch and their families. The area projected for development is not an area where subsistence hunting is legal and hunting will not be allowed in the area proposed for development. The Master Plan provides for an inland deer fence to be installed in order to close off the area from the shoreline and inland to the deer fence to be cleared of all deer.

Approximately 40,000 acres of other Ranch land (not the area of proposed development), previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Molokai Land Trust, the current 4,000 acres of preserves, and the land designated under the Master Plan for Open Space/Protective Easements. The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. As indicated in their CC&Rs, Lā'au Point buyers must accept that hunting occurs in the broader surrounding area.

Also, as discussed in Sections 2.3.7 and 4.2 of the Draft EIS, the Master Plan recognizes Native Hawaiian subsistence rights, and protects for the community, the hunting and fishing resources of the island. The community will have more access to the Lā'au area for subsistence fishing than before.

Thank you for your participation in the EIS process. Your letter will be included in the Final EIS.
Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Chris Cramer
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

Attachment: Revised Section 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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