



November 1, 2007

Kawaiola Agader
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawaii 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Agader:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about water. We note that 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*.

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 Lā'au Point development.

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.

When MPL acquired the Molokai Public Utilities water system, inadequate maintenance had resulted in significant system losses amounting to approximately 200,000 gallons per day. MPL has already begun to implement system improvements and anticipates that system losses can be cut in half.

To minimize water demands, MPL will use a number of different strategies. Conservation rates that provide financial incentives to customers to conserve water have already begun to be implemented and its effectiveness has already been manifested. Additionally, covenants on Lā'au Point lots will limit further subdivision of the lots, restrict disturbance of each lot to no more than 30% (approximately 1/2-acre, require catchment systems for each residence for irrigation use, requiring drip irrigation systems, double flush toilets and other water conservation devices.

Molokai Properties Limited c/o Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
Telephone 808.531.0158 • Facsimile 808.521.2279

To whom it May Concern,

Aloha, my name is Kawaiola Agader and I attend Molokai High School. I am an average 11th grader that had been raised here on the beautiful island of Molokai. As an assignment in my Environmental Science class the students and I were assigned to read the Environmental Impact Statement for Laau and come up with questions. It then evolved into writing a letter.

In the statement, I read a portion on water and come up with two questions. Since Kaluakoi already lacks clean water where are the people going to get CLEAN water for all the houses if they are built? If you think about it water is already low and getting it from any other part of the island that part of the island will run even lower. And if they use a lot then our water will become salty.

So now in conclusion I want to thank you for taking your time to read my letter and I hope that you will really take into consideration what us as Molokaiians really want and not just what you think we want.

Much Aloha,

Kawaiola Agader

Kawaiola Agader
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

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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Kegal-Joe Tancayo
Per. 6



La'au Point Letter

To Whom It May Concern:

I am writing a letter to you folks to find out more information on the development of La'au point. They are proposing a plan for the Cultural Protection zones, located at La'au Point. To my understanding the developers will be donating 1,000 acres of land to be made in to a Cultural Protection zones. I also understand that 128 acres of land will given to the Molokai land trust, this land is located in Kamaka'ipo Gulch and this will be made into an archeological preserve.

As a member of the community I would like to know, how will these lands be regulated and protected? How will the community use these lands and what can be done on these lands? What will be done with the archeological preserve in Kamaka'ipo Gulch and what will be built there?

A handwritten signature in black ink that reads "Kegal-Joe Tancayo".

November 1, 2007

Kegal-Joe Tancayo
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Tancayo:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We acknowledge your questions about the Cultural Protection Zones, and offer the following response.

1. How will these lands be regulated and protected?

Response: The Cultural Protection Zones at La'au Point will be owned and managed by the Moloka'i Land Trust, which is a private, non-profit corporation with its focus on land conservation. The Land Trust owns land fee simple or acquires conservation easements to conserve land for future generations. There is a current nine-member board of directors, but the size of the board may increase. The Land Trust includes its own bylaws to govern its lands. The Land Trust has adopted the same standards and practices of the Land Trust Alliance, which is a national organization that focuses on providing support to land trusts. The Land Trust Alliance standards and practices can be reviewed at < <http://www.lta.org/sp/index.html> >.

2. How will the community use these lands and what can be done on these lands?

Response: Based on the community-proposed access plan (see Appendix A, p. 105), protection of the off-shore coastal resources at La'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a shoreline access management plan has been developed and adopted to regulate (through legal and enforceable means) the use of the land and ocean resources to ensure the continuance of the resources for future generations.

Further protocols are to be developed for community hunting access to lands that previously have been closed to the community for subsistence hunting for many generations.

The shoreline access management plan would adopt protocol, rules, and permitted activities for persons engaging in subsistence shoreline fishing and gathering in these Conservation District shoreline areas. Mandatory educational classes in traditional subsistence gathering and access responsibilities, safety and protocol would also be required for every person wishing to gain access. A caretaker or Land Trust steward will supervise access to ensure overfishing does not take place, and that those who access the area have taken the appropriate education classes. The shoreline access management plan will be added the Final EIS as an Appendix.

Kegal-Joe Tancayo
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

3. *What will be done with the archeological preserve in Kamaka'ipo Gulch and what will be built there?*

Response: The archaeological preserve will remain as-is; nothing will be built there.

The lands will be protected according to the Preservation Plan (provided in Appendix E of the Draft EIS). That means protective fencing of buffer zones in cases where construction will occur nearby, archaeological monitoring, stabilization in some case to keep them from eroding away, and other measures detailed in the Preservation Plan. The additional questions about community use and future plans will require development of a Cultural Resource Monitoring Plan, to be done in consultation with the community and the board of the Land Trust. This will define the details, but the basic land use—preservation of archaeological sites and the cultural landscape around them, means that any building in the Cultural Protection Zones and the Kamaka'ipo archaeological preserve will have to serve that goal, and would consist of small facilities for people using or visiting the preserves, such as interpretive/educational trails or signs, and possibly a parking and rest area if it can be done without impacting the sites. The main road for the La'au subdivision will have to run through a part of the Kamaka'ipo archaeological preserve at some point, but we believe we have identified a location where it can do so with no impact to archaeological features. Anticipated uses of the preserves include cultural practices (including restoration of the sites and landscapes), education, and possibly research.

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

pg 1/2

TO: M.P.L. FAX 521-2279
and P.B.R. FAX 523-1402

Subject: Comments pertaining to P.F.I.S.
for LA'AU Point Project

FROM: Ken BARE P.O. Bx 1235 Kaunakakai, HI.

Comment #1: (Pretaining to Chopt 1 through 2, 1, 7) and
(Appendix A - Subcommittee members)

Request: - It should be noted in the E.I.S.
statement that not all subcommittee members
in Appendix A Voted for or support the current plan
Discussion: I, Ken BARE and Cheryl Pritchard are listed in
the Appendix A under 2 subcommittee's, we attended
many meetings, do not support the current Community
based PLAN and never Voted for it.

Conclusion: AS written this, D.E.I.S, falsely makes it
sound as if the "Community-based PLAN" is
widely supported by the Community?

Questions: Did members of the Subcommittee's even
vote on the PLAN?

Did the committee at Large Vote on the PLAN?
IF NOT WHY?

pg 2/2

Comment #2 (pretaining to 4, 9, 2 water)

The discussion of water in the Deis. is
incomplete.

Questions: IF salinity levels rise, at what
level will MPL stop or reduce
pumping from effected well? OR the
Aquifer? What are the backup plans
in case of misjudgements of the water situation

Discussion: Given in the "Plan" MPL will never
ask the Community for water again, all
future usage of water on Island must
be addressed and is relevant to this E.I.
Proposed water usage for LA'AU point
and any other needs of M.P.L. is relevant
to future growth of Makaha outside
M.P.L.'s holdings, and is relevant to this E.

Thank you,

Ken Bare Feb 23, 2007



Mr. Ken Bare
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

November 1, 2007

Ken Bare
P.O. Box 1235
Kaunakakai, Hawaii 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Bare:

Thank you for your fax dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your questions.

1. *Did members of the Subcommittees even vote on the Plan? Did the community at Large vote on the Plan? If not why?*

Response: Sub-committees of EC Project #47: Molokai Sustainable Development looked at specific aspects of a wider Master Plan between March and July 2003 included: Economics, Cultural, Tourism, Environment, and Recreation. Most committees, with the exception of the Economics committee that had difficulties in focusing on the future economics of the island, voted unanimously in passing recommendations on their particular focus areas to the Land Use Committee.

A total of 63 committee meetings were held. Those committees never focused on an overall Master Plan because they were focusing on specific areas of interest. The individual committee's recommendations were studied by the Land Use Committee and a Master Plan developed.

All members who were present at the Land Use Committee voted on the Master Plan. Members of the sub-committees voted in support of their committee's recommendations to the Land Use Committee.

The authority to approve the Master Plan rests in part with its participants in that anyone has the power to establish a Land Trust, so long as its meet IRS and State requirements, and in part with regulators such as the Land Use Commission, the Molokai Planning Commission and the Maui County Council.

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 Molokai Planning Commission in order that they can decide issues such as this Master Plan's implementation.

The entire community at large did not vote on the Master Plan. MPL believes that the regulators will decide on the efficacy of the Master Plan.

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2. *If salinity levels rise, at what level will MPL stop or reduce pumping from effected well? Or the Aquifer? What are the backup plans in case of misjudgments of the water situation.*

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 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 DHHHL;
- Carry out such other necessary and proper exercise of the Commission's powers.

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



November 1, 2007

Keoki Mollena-Akina
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Mollena-Akina:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *One of the things I was concerned about was the thing that they stated about the ocean and the fishes they listed. One example was that they said there's only little marine life. For example, they said manini, kataloto, na'ena'e, a single island jack (also known as ulua), & two individual rois. To me, they must have gone out on a rough day, because me being a diver, I've seen a lot of fishes down there. For example, moi, kole, lobster, ulua, uku, uhu, menpache, etc. There are so many on a regular day, you couldn't even count them all. I am just trying to save marine life for the future generations.*

Response: We acknowledge your concern about the amount of marine life listed. Appendix D of the Draft EIS contains the full marine biological survey. The marine survey represents a snapshot in time. However, the conditions observed represent the integration of historic influences on that coast. While there are likely some annual, seasonal, diurnal and perhaps longer-term fluctuations in the apparent abundance and diversity of marine biota, the intent of the survey was to characterize the area in comparison with a range of other coastal habitats around the Hawaiian Islands to determine its uniqueness and/or special qualities. The results indicated that the area was not remarkable in comparison with other areas around the Main Hawaiian Islands. Additional surveys would not likely alter this conclusion.

In their comment letter on the Draft EIS, the State Department of Land and Natural Resources, Division of Aquatic Resources confirmed that the methodology employed for the marine biological surveys is sufficient. Section 3.8 (Marine Environment) of the Final EIS has been revised to include the following:

According to their letter dated February 15, 2007, the State Department of Land and Natural Resources, Division of Aquatic Resources stated: "the methodology employed by their subcontractor TEC is consistent with acceptable practices, and very likely akin to what we would have done ourselves if given the task."

2. *I would also like to talk about native animals down at La'au Point. When I was reading the paper, I came across them saying that there were no native Hawaiian species there. However, I have seen native Hawaiian species like the pueo. Pueos live in trees such as kiawe, so if the trees were cleared away to make room for houses, the pueos would lose their habitat.*

To whom it might concern:

ALOHA!!!!

My name is Keoki Mollena-Akina. I'm attending Molokai high school and I'm an 11th grader, enrolled in environmental science class. Today (1/30/07) we had to read the la'au statement and find a section that we wanted to talk about. Then when we are finish with the reading, write question about what you read.

The section I chose to talk about and write about is marine life. One of the things I was concerned about was the thing that they stated about the ocean and the fishes they listed. One example was that they said there's only little marine life. For example, they said manini, kataloto, na'ena'e, a single island jack (also known as an ulua), & two individual rois. To me, they must have gone out on a rough day, because me being a diver, I've seen a lot of fishes down there. For example, moi, kole, lobster, ulua, uku, uhu, menpache, etc. There are so many on a regular day, you couldn't even count them all. I am just trying to save marine life for the future generations.

I would also like to talk about native animals down at La'au Point. When I was reading the paper, I came across them saying that there were no native Hawaiian species there. However, I have seen native Hawaiian species like the pueo. Pueos live in trees such as kiawe, so if the trees were cleared away to make room for houses, the pueos would lose their habitat.

That's all I have to say right now, thank you for taking the time to read this letter.

Sincerely,

Keoki Mollena-Akina

Keoki Mollena-Akina
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

Response: We would like to clarify that the Draft EIS does not state that "there are no native Hawaiian species there." The Draft EIS summarizes a fauna survey, during which the biologist did not directly observe any native birds. In his full report, provided as Appendix C in the Draft EIS, the biologist, however, does state that pueo is a likely species known to forage in the area; he just did not observe any during his survey. The biologist notes that pueo hunt in grasslands, agricultural fields, and forests, and nests on the ground in habitats with tall grass.

The coastal ecosystem and shoreline habitats will be preserved by the 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.

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

Kevin Brown
HC 1 - 628
Kaunakakai, Hawai'i 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Brown:

Thank you for your e-mail dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *There exists no possible argument in favor of commercial development on hallowed ground. Can you imagine marching into the Vatican and building a fashion boutique. Who will go to the Temple in Jerusalem and set up a concession stand to sell hot dogs? Is it OK for foreigners to descend on Mecca and start building commercial places of business?*

Response: We acknowledge your concerns about commercial development at Lā'au Point. With all due respect, we note that there will be no commercial development at Lā'au. The Lā'au Point project proposes 200 two-acre rural-residential lots surrounded by an open-space buffer, roads and infrastructure, an expansion of the State Conservation District, cultural protection zones for archaeological sites, easements to protect subsistence gathering, and two public shoreline parks in the area of Lā'au Point.

We also note your comparisons of Lā'au Point to the Vatican, Jerusalem, or Mecca. Those places that you mention are very different and have commercial development around them, being quite popular tourist destinations. Clearly, Lā'au Point is not nearly as often-visited and the proposed project would prevent mass tourism from spreading there.

2. *As the EIS, on page 57, says, "The Lā'au area is generally regarded a special place of spiritual mana and power." This is not a minor point—it's crucial, and is decisive. The land is sacred and it must be left untouched for the use of the people for whom it has that unique significance. It has exactly the same value as Jerusalem or the Vatican or Mecca, and it must be accorded exactly the same respect and consideration. ¶Once again, the EIS states, "The overall spiritual quality of the Lā'au area as wahi pana and a wahi kapu cannot be quantified..." Of course not, that is the point. It is absolute. No attempt can be made to quantify it. It is sacred. And, about this matter there is no debate.*

Response: Comment noted. In responding to your comment regarding the spiritual quality of Lā'au point, 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.

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
Telephone 808.531.0158 • Facsimile 808.571.2719

From: Brown Kevin [mailto:kboom@wave.hicv.net]
Sent: Fri 2/23/2007 6:25 AM
To: Tom Schnell
Cc: mrogers@dbecht.hawaii.gov; oeqc@doh.hawaii.gov
Subject: Comment on the Lā'au Point Draft Environmental Impact Statement

Comment on the Lā'au Point Draft Environmental Impact Statement

22 February 2007

To whom it may concern,

Of all the issues discussed in the Lā'au Point Draft Environmental Impact Statement (EIS), the final end point of the debate comes at section 4.2.3 on page 57.

Lā'au Point is sacred land. It's a self-evident truth. Go there and be there for a few minutes and the place will tell you in your bones and in your heart that it must not be disturbed.

There exists no possible argument in favour of commercial development on hallowed ground. Can you imagine marching into the Vatican and building a fashion boutique. Who will go to the Temple in Jerusalem and set up a concession stand to sell hot dogs? Is it OK for foreigners to descend on Mecca and start building commercial places of business?

As the EIS, on page 57, says, "The Lā'au area is generally regarded a special place of spiritual mana and power." This is not a minor point—it's crucial, and it is decisive. The land is sacred and it must be left untouched for the use of the people for whom it has that unique significance. It has exactly the same value as Jerusalem or the Vatican or Mecca, and it must be accorded exactly the same respect and consideration.

Once again, the EIS states, "The overall spiritual quality of the Lā'au area as a wahi pana and a wahi kapu cannot be quantified..." Of course not, that is the point. It is absolute. No attempt can be made to quantify it. It is sacred. And, about this matter there is no debate.

Commercial development on sacred land is kapu.

Kevin Brown
HC 1 - 628
Kaunakakai HI 96748

808-558-0808

Kevin Brown
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

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.

To provide clarification of the above information in the Final EIS, Section 4.2 has been revised as shown below:

Cultural Significance of Lā'au Point – In Hawaiian tradition, lae, or points of land into the ocean, are culturally significant. As a feature, the lae includes not only the point itself, which can be visualized as a nose on a face, but also the forehead, the land formation from which the point juts out into the ocean. The community refers to the lae, or points along the south shore, using numbers - first point (Kanalukaha), second point (Kapukuwahine), third point (Kāhalepōhaku) and fourth point ('Ōpihi Road).

A large part of the significance of the Lā'au Point area is that it is raw and untouched. It is so isolated that most of the residents of Moloka'i may have never been there and may have no direct experience with the place. This factor gives Lā'au an almost mythical quality. Lā'au Point has become an icon of what Moloka'i represents – a rural stronghold and reserve of Native Hawaiian culture, a cultural kipuka. If Moloka'i is "The Last Hawaiian Island" then Lā'au is one of the last untouched Hawaiian places on "The Last Hawaiian Island."

It should be noted that while the development is called Lā'au Point rural-residential subdivision, that Lā'au Point itself is not part of the development. It is not owned by MPL, but by the U.S. federal government, which owns and manages a lighthouse for navigational safety within a 51-acre parcel.

Molokai Ranch has applied to the State Land Use Commission to re-district the shoreline 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, 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 succinctly summarized in Section 4.2 of the Draft EIS and provided on pages 116-117 of the Cultural Impact Assessment report (Appendix F of the Draft EIS).

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Kevin Brown
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 3

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

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To Whom It May Concern:

Aloha my name is Kevin Kahana-Kalua, and I am a junior at Molokai High School. We had an assignment on the Draft Environmental Impact Statement. We were suppose to choose a topic and do a draft.

I have chosen pages 151-154. These page talks about the subdivision on Molokai such as Maunaloa, Kualapuu, Kaunakakai, and the Kaluakoi Resort.

I think that you shouldn't do any thing to our island, just leave it as it is. Because this island means a lot to us, and if you decide to build does houses then our island would be history. No Silent, less places to hunt, then you would have to build more store cause there is not enough food for everybody.

Questions:

Why are you building here? Go and build some place else to make you money.

Do you think it is going to chance our life if you start this project?

So this is all I've got to say and I want to thank you for your time to read this letter, maybe you might chance your mind. And malama pono and be safe.

Mahalo for you time sincerely

Kevin Kahana-Kalua

Kevin Kahana-Kalua.

November 1, 2007

Kevin Kahana-Kalua
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawaii'i 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Kahana-Kalua:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your concerns about the project.

We note that pages you chose to discuss, pages 151-154 of the Draft EIS, discuss the various Alternatives to the proposed Lā'au Point project. The Maunaloa, Kualapuu, Kaunakakai, and Kaluako'i Resort subdivisions you refer to are not proposed. These are alternatives which were analyzed, reviewed within the EC community plan process, and then rejected in favor of Lā'au Point.

We understand that you want us to leave the island as it is. However, doing nothing is not possible as we have a commitment to the future of this island and our employees. The project and the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which the project is a part of, will prevent development on a majority of the land. Benefits of the project include the donation of 26,200 acres to a Moloka'i Land Trust and Community Development Corporation, restrictive easements on another 24,000 acres of Molokai Ranch land, preservation of cultural and archaeological sites, increased subsistence gathering access, and permanent parks and open space. Appendix A of the Draft EIS contains the Master Plan in its entirety.

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 Chung, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
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November 1, 2007

Kian Phillips
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Phillips:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *[How can the plan protect endangered plants from the development? Develop means to make better, but what if the land doesn't need to be better? If it gets developed then it will eradicate many of the endangered plants habitats. Without the plants natural habitat they most likely wouldn't make it. So if there was an endangered plant to be seen on the development site, will the operation of the plan be compromised or will it still go through with it.]*

Response: The majority of the native plant communities are located in the sandy beach and rocky shoreline areas, where no development will occur. The Moloka'i Land Trust will have management authority over the expanded Conservation District area and county-zoned open space areas. To address your comment in the Final EIS, as well as to address other questions and concerns regarding 'ihiihaukaea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

2. *Another thing is what if there are Hawaiian artifacts found on the site, will it still affect the plan? How about if there are human remains on the site will the operation still go through?*

Response: As discussed in Section 2.3.1 (Protected Areas) of the Draft EIS, the roadways and residential lots avoid cultural and archaeological sites. These sites will be preserved and protected in place by designating the surrounding area of the archaeological site into Cultural Protection Zone and Conservation District.

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.

To Whom It May Concern:

My name is Kian Phillips. I am a junior at Molokai High School, attending an environmental science class. I have briefly read the three hundred pages of the Environmental Impact Statement, and our assignment is to read a section of the E.I.S and come up with questions to ask about it.

I have briefly read what the statement says and it says they will protect environmental valuable natural resources and agricultural land, pasture and open space. But how can the plan protect endangered plants from the development? Develop means to make better, but what if the land doesn't need to be better? If it gets developed then it will eradicate many of the endangered plants habitats. Without the plants natural habitat they most likely wouldn't make it. So if there was an endangered plant to be seen on the development site, will the operation of the plan be compromised or will it still go through with it. Another thing is what if there are Hawaiian artifacts found on the site, will it still affect the plan? How about if there are human remains on the site will the operation still go through?

But the most important problem I'd say would be the water. Where would the water be coming from? And with this 200 more lots would there be enough water to go through out the entire Molokai, for gardening, showering, cooking and any other water use?

Thank you for taking the time to read my questions with much respect and aloha,

Mr. Kian Phillips
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

3. *But the most important problem I'd say would be the water. Where would the water be coming from? And with this 200 more lots would there be enough water to go through out the entire Molokai, for gardening, showering, cooking and any other water use?*

Response: Section 4.9.2 and Appendix P of the Draft EIS discuss the Water Plan for La'au Point and the overall *Community-Based Master Land Use Plan for Molokai Ranch*.

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.

When MPL acquired the Molokai Public Utilities water system, inadequate maintenance had resulted in significant system losses amounting to approximately 200,000 gallons per day. MPL has already begun to implement system improvements and anticipates that system losses can be cut in half.

To minimize water demands, MPL will use a number of different strategies. Conservation rates that provide financial incentives to customers to conserve water have already begun to be implemented and its effectiveness has already been manifested. Additionally, covenants on La'au Point lots will limit further subdivision of the lots, restrict disturbance of each lot to no more than 30% (approximately 1/2 acre, require catchment systems for each residence for irrigation use, requiring drip irrigation systems, double flush toilets and other water conservation devices.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding water issues, Section 4.9.2 (Water) of 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.

Mr. Kian Phillips
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 3

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachments:

Revised Section 3.6 (Flora)
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

VIA FACSIMILE TRANSMITTAL

February 23, 2007

John Sabas, General Manager of Community Affairs
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Thomas S. Witten, ASLA
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State Land Use Commission
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Genevieve Salmonson
OEQC
235 S. Beretania St. #702
Honolulu, Hawaii 96813
Fax: (808) 586-4186

Re: Comments Regarding Lāʻau Point Draft Environmental Impact Statement

Deans Mr. Sabas, Mr. Whitten, Mr. Ching and Ms. Salmonson:

Pursuant to the Hawaii Administrative Rules §11-200, I am providing comments on your December 2006 Draft Environmental Impact Statement (DEIS) for Lāʻau Point, Molokai. I am currently a student at the University of Hawaii at Mānoa pursuing a degree in engineering. Based on my background, I've analyzed the soils section of your DEIS. In addition to failing to comply with Hawaii Revised Statutes chapter 343, your existing analysis presents serious health and safety issues to the people of Molokai and the future residents of your proposed development. In reviewing and responding to my comments, I hope you will make every effort to address the concerns that I am detailing below.

The shrink-swell potential of soils in the area cannot be ignored.

The DEIS ignores the fact that the majority of the proposed project area is comprised of Kapuhikani Extremely Stony Clay (KKEC), a soil with high shrink-swell potential. The shrink-swell nature of these soils will impair the structural integrity of any buildings constructed at Lāʻau Point if left unmitigated. The NRCS soil survey of 1972 recognizes that KKEC soils have "deep, wide cracks that remain open throughout the year" and that the "shrinking, cracking, and shearing [of vertisols] make these soils difficult to manage for farming and for engineering and other nonfarm uses" (1). According to the NRCS Soil Survey of 1972, Rock Land (RKC) also has a high shrink-swell potential and "buildings on the steep slopes are susceptible to sliding when the [RKC] soil is saturated. Foundations and retaining walls are susceptible to cracking."

In order to build houses on soils that have a high shrink-swell potential like Kapuhikani, one would have to (1) remove the problem soil by excavating and placing footings directly on the underlying basalt, or (2) improve the soil by pumping cement under pressure into the ground at various locations, place stone columns, or treat the soil with an appropriate chemical like lime. Regardless of the method chosen, how this issue will be mitigated must be included in any final EIS.

Discrepancies exist in the text for Mala Silty Clay (MmA) in sub-section 3.3.1.

The DEIS states on page 9 of sub-section 3.3.1, titled 'NRCS Soil Survey', that "Shallow wells can be dug in this soil. The water in the wells is likely to be brackish, and care is required if it is used for irrigation purposes." The title of this section, direct reference to the 1972 NRCS soil survey in the text of the sub-section, and reprint of text from the NRCS soil survey throughout the rest of the section implies that the 1972 NRCS soil survey is the source of the information contained in this section. However, the 1972 NRCS soil survey actually says that shallow wells have been dug in this soil and that the water in the wells is brackish. Simply because wells have been dug in this type of soil before does not mean wells will be able to be dug at Lāʻau. Any final EIS must examine whether or not wells can be dug in MmA soil specifically at Lāʻau and the resulting environmental and cultural impacts of any such action.

Not all soils present in the proposed project area are discussed.

According to the DEIS, the Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai (NRCS 1972) identifies five different soil types in the project area. However, according to Figures 12-14 in the DEIS, the project area includes several additional soils not addressed in the body of the report (Holomua Silt Loam, Holomua Silt Loam-Braded, Punaoa Stony Silty Clay-Braded) and one additional soil not mentioned anywhere in Section 3.3.1 (most likely MuB3, but potentially also MuA and/or MuB; the map is not detailed enough to tell for sure if the latter two are included in the project area or not). While residential lots are not currently planned where these soils exist, they are part of the project area according to Figures 12-14 and will host an access road and modified intersection on Kaluiko'i Road as a component of the proposed project. If these soils do not in fact exist in the project area, Figures 12-14 must be formatted to reflect that. Otherwise, each of the soil types must be included in the body of the report, especially since most of these soils have substantial potential for cultivation when

irrigated or are well suited to uses other than what has been proposed by the DEIS according to the soil capability classification criteria. Any final FIS must examine the environmental and cultural impacts of development on these particular soils and what alternative uses could take place.

Care and consideration must be given to native flora.

Two native plants, 'ilima and/or 'uhala, are present on Kapuhikani, Mala, Pomoa, Very Stony Land Eroded, and Holomua soils. Equally ignored is the existence of the native Puakaue on Very Stony Land (rVS) that is also present in the proposed project area. Traditionally, stems, leaves, and root bark of 'uhala were pounded, strained, and used to alleviate sore throat. Many Hawaiians who use none of the other traditional medicinal plants still turn to this one today [4]. 'Ilima flowers are still used today in lei-making. Additionally, Lā'au is one of five sites in Hawaii where 'ihii continues to exist. 'Ihii is included on the state and federal endangered species lists. Any final EIS must take the impacts of the proposed project on these precious native flora into consideration, especially the endangered 'ihii.

Other uses for soils must be discussed, including the potential for soil-based agriculture.

The NRCS soil survey does not classify all soils within the project site as "poorly suited for soil-based agriculture" under all conditions as the DEIS misleadingly implies. In fact, though this claim is made at the end of section 3.3, sub-section 3.3.3 grudgingly concedes that land classified as "other" by the A.LISH system "can be farmed satisfactorily". Such blatant contradictions must not exist in any final EIS. If left non-irrigated, as all soils in the proposed project area currently are, many do have limitations that would make cultivation difficult but not impossible. However, if water that would otherwise be consumed by the proposed development (one estimate was a potential consumption of 2.97 MGD) was instead used for irrigation on these soils, the soil classifications would drastically change and these soils would in fact be suitable, and in some cases highly desirable, for soil-based agriculture.

Table 1 on page 4 provides a comparison between non-irrigated and irrigated soil capability classifications by soil type. The capability classification for Kapuhikani under irrigation was not provided in the NRCS Soil Survey. However, "Vertisols are inherently fertile soils" and have been successfully cultivated in other areas of the world [2]. Holomua and Molokai soils are Oxisols. As seen in Table 1, when irrigated, H1vA and MuB have "few limitations that restrict their use" as they are classified as type I [1]. H1vB and MuB are classified as IIe meaning they "have moderate limitations that reduce the choice of plants or that require moderate conservation practices" and they are "subject to moderate erosion if they are cultivated and not protected" [1]. It is simply untrue that the soil at Lā'au is unsuited for soil-based agriculture as is implied by the DEIS. H1vB and MuB3, both classified as IIe, have "severe limitations that reduce the choice of plants, require special conservation practices, or both" and are "subject to severe erosion if they are cultivated and not protected" [1]. H1vC3, classified as IVe, have "very severe limitations that reduce the choice of plants, require very careful management, or both" and are "subject to severe erosion if they are cultivated and not protected" [1]. Thus with these soils, negative environmental impacts resulting from cultivation can be avoided by careful management to protect the soils mainly from erosion. The effective cutoff is considered to be a classification of

IV [3]. As Table 1 demonstrates, nearly all soils are above the cutoff when irrigated making them indeed suitable for soil cultivation. As shown in Table 1 MmA, like H1vA and MuA, falls into the highest classification. MmA is classified as an Entisol according to the NRCS Soil Survey. In fact, "Major rice-producing areas in tropical and subtropical regions, especially in Asia, are found on fertile Entisols on alluvial plains and river valleys" and have been in production for centuries [2]. In summary, the biggest difference between soil classes is the availability of water. Any final FIS should examine alternative uses of the various soil types with and without water.

Soil	Capability classification comparison for soils		Table 1 Additional classifications
	Capability classification - non irrigated	Capability classification - irrigated	
Soils where residential lots are proposed			
Kapuhikani Extremely Stony Clay (KKYC)	VIIc		Pasture group 1
Very Stony Land (rVS) and Very Stony Land, Eroded (rVT2)	VIIc		
Other soils in project area			
Pomoa Stony Silty Clay 5 20% slopes, eroded (PID2)	VIc		Pasture group 3
Baehles	VIIIw		
Molokai Silty Clay Loam 0-3% slopes (MuA)	IVc	I	Sugarcane group 1, pineapple group 1, pasture group 2
Molokai Silty Clay Loam 3-7% slopes (MuB)	IVc	IIe	Sugarcane group 1, pineapple group 2, pasture group 2
Molokai Silty Clay Loam 3-7% slopes, severely eroded (MuB3)	IVc	IIIc	Sugarcane group 1, pineapple group 2, pasture group 2
Holomua silt loam 0-3% slopes (H1vA)	VIc	I	Pineapple group 1, pasture group 1
Holomua silt loam 3-7% slopes (H1vB)	VIc	IIe	Pineapple group 1, pasture group 2, pineapple group 2
Holomua silt loam 3-7% slopes, severely eroded (H1vB3)	VIc	IIIc	Pineapple group 1, pasture group 1
Holomua silt loam 7-15% slopes, severely eroded (H1vC3)	VIc	IVe	Pineapple group 3, pasture group 1
Mala Silty Clay 0-3% slopes (MmA)	VIc	I	Pasture group 1

Source: Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai (NRCS 1972).

It is clear in Table 2 below that all but two of the soils in the proposed project area may be productively cultivated with either pineapple or sugarcane crops or as pasture [1]. Claiming that all soils in the project area are "poorly suited for soil-based agriculture" is simply inaccurate.

Description of soil grouping		Table 2	
Group	Features	Soils in group	
Pineapple group 1, 2, 3	<ul style="list-style-type: none"> If mulch is used, pineapple can be grown without irrigation in areas where the annual rainfall is less than 25 inches. Yields amount to 35 to 45 tons per acre for the plant crop and 25 to 35 tons per acre for the ratoon crop. Yields are 12 to 15 tons per acre per crop. 	HvA, MuA, HvB, HvB3, MuB, MuB3, HvC3	
Sugarcane group 1	<ul style="list-style-type: none"> Well-managed improved pasture produces 1700 to 2600 pounds of air-dry forage per acre per year. Improvements are difficult in stony areas (KKTC) and eroded soils (HvB3, HvC3). Total production on unimproved pasture is 400 to 1300 pounds of air-dry forage per acre per year. 	MuA, MuB, MuB3	
Pasture group 1	<ul style="list-style-type: none"> Well-managed improved pasture produces 1400 to 2600 pounds of air-dry forage per acre per year. Improvement is difficult on eroded soils (MuB3). Total production on unimproved pasture is 700 to 1700 pounds of air-dry forage per acre per year. 	KKTC, HvB, HvB3, HvC3, MmA	
Pasture group 2	<ul style="list-style-type: none"> Well-managed improved pasture produces 2000 to 4800 pounds of air-dry forage per acre per year. Total production on unimproved pasture is 1000 to 2000 pounds of air-dry forage per acre per year. 	MuA, MuB, MuB3	
Pasture group 3	<ul style="list-style-type: none"> Well-managed improved pasture produces 2000 to 4800 pounds of air-dry forage per acre per year. Total production on unimproved pasture is 1000 to 2000 pounds of air-dry forage per acre per year. 	PID2	

Source: Soil Survey of the Islands of Kauai, Oahu, Molokai, and Lanai (1972).

Weaknesses in the land classification systems are not addressed.

It must be noted that the NRCS Land Capability Classification has a number of weaknesses. First, it is patterned after mainland conditions thus focusing on conditions suited to field crops and mechanized agriculture. However, this is not the only method of cultivation. In fact, Cuba's small-scale farming system, independent of industrial machines, has become a world-renowned model of sustainable agriculture. Second, the productivity ratings of this system are limited since they are indexed to the dominant crops, which include pineapple and sugar, of about 40 years ago. There are many less water-intensive crops that, if considered at the time, may have yielded higher productivity ratings for the area.

Similarly, there are substantial weaknesses in the Land Study Bureau Detailed Land Classification. The overall productivity ratings mentioned in the DEIS (A-F, with A being very good and E being very poor/not suitable) are based on existing inputs, technology, and management at the time of survey (1960's). Thus, a soil like Mala Silty Clay might have a productivity rating of E without irrigation, but would be rated A with irrigation. Again, the potential of such soils to be productive with irrigation must be considered in any final FIS to make an informed decision regarding Molokai's limited water supply. The productivity ratings of this system, like the NRCS Land Capability Classification system, are indexed to the dominant crops of the 1960's. As a result, it does not accurately reflect the potential of the soils under irrigation. Finally, the soil types were drawn over aerial photos at variable scale. It is possible that other, more fertile soils exist in the area. This limitation should be noted in any final FIS.

The ALISH system of classification has similar limitations. It, like the NRCS classification system, idealizes mechanized field crops and thus does not accurately reflect the arability of soils under other farming methods. Land classified as "other" under this system is "of state or local importance for production, but not prime or unique; needing irrigation or possessing characteristics like seasonal wetness, erodibility, that require further management for commercial production" according to the State of Hawaii Department of Agriculture [3]. Thus, no conclusions can be drawn from this system about the arability of this land when irrigated. The DEIS misleadingly neglected to mention that land simply needing irrigation to become commercially viable for production is enough to classify a land as "other" rather than "prime". Finally, all other land not falling into the three groups (prime, unique, other) are considered "residual" by this system and it is thus inaccurate and highly misleading to assume that such land provides "no value for soil-based agriculture" as the DEIS has [3].

The fourth classification system must be discussed.

The fourth system, the Land Evaluation and Site Assessment (LESA) System, combines five soil scores to reflect land capability. Each system has rated a different percentage of land suitable for agriculture in the state with LCC at 21% of the agriculture district, LSB at 24%, LESA at 41%, and ALISH at 40%. Thus it is vital to take all studies into consideration for the best possible analysis. While there are weaknesses associated with this system like all the others, it accounts for other land use policy considerations, attempts at comprehensiveness, and is the most current



November 1, 2007

Kim Kido
[no address provided]

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Kido:

Thank you for your fax dated February 30, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *The shrink-swell potential of soils in the areas cannot be ignored. In order to build houses on soils that have a high shrink-swell potential like Kapukitani, one would have to (1) remove the problem soil by excavating and placing footings directly on the underlying basalt; or (2) improve the soil by pumping cement under pressure into the ground at various locations, place stone columns, or treat the soil with an appropriate chemical like lime. Regardless of the method chosen, how this issue will be mitigated must be included in any final EIS.*

Response: There are several methods to mitigate the effects of expansive soils on foundations. Due to the limited thickness of the clay soils and shallow depth to rock at the project site, most of the soils can be removed during grading, eliminating the problem. If required at specific locations, other methods, such as capping over the clay with structural fill or special foundation design may be used.

Laboratory soil testing on samples of the site soils indicate that the expansiveness varies considerably. Most of the soils should be classified as low to moderately expansive with highly expansive soils only in localized areas. More importantly, the soil layer is thin, generally less than two feet thick. Therefore, adverse effects of expansive soils on foundations can be readily mitigated by removal.

Since the Draft EIS publication, a Geotechnical Engineering Reconnaissance (Survey) was completed by Geolabs, Inc., in the project area. This Survey has been appended to the Final EIS. In the Final EIS, Section 3.3 will be revised to include the following summary:

3.3.4 Geotechnical Engineering Reconnaissance

A Geotechnical Engineering Reconnaissance (Survey) was performed by Geolabs, Inc., in July and August of 2007 within the project area. The Survey, which is provided as Appendix D, provides a general study of the predominant soil characteristics of the project area.

A review of aerial photographs combined with site reconnaissance and laboratory testing of selected soil samples indicates that the predominant soil at the project site is represented by a reddish brown to brown colored silty clay with a typical shrink-swell potential of less than about two to four percent, which is considered to be of generally

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in terms of existing conditions. For these reasons, it deserves attention and must be considered in any final EIS.

Makelelo for the opportunity to comment.

Very Truly Yours,

Kim Kido

References

- [1] Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, USDA Soil Conservation Service in cooperation with the Hawaii Agricultural Experiment Station, 1972.
- [2] Juo, Anthony S. R. *Tropical Soils: Properties and Management for Sustainable Agriculture*. New York, New York: Oxford University Press, 2003.
- [3] According to the Department of Agriculture (DOA) and Office of Planning presentation on land rating systems at <http://www.eiahr.hawaii.edu/away/presentations.asp>.
- [4] Abbott, Isabella Aiona. *Lā'au Hawaii: Traditional Hawaiian Uses of Plants*. Honolulu, Hawaii: Bishop Museum, 1992.

low expansion potential. Based on an evaluation of the existing site conditions, these soils reside over approximately 70 to 80 percent of the land area within the project limits. The remaining 20 to 30 percent of the land area within the project limits may contain generally isolated and discontinuous deposits of expansive, dark grayish brown colored clay, which may be classified as a true vertisol containing a higher percentage of montmorillonite clay mineralogy.

In summary, the predominant surface soils encountered during reconnaissance consists of reddish brown to brown silty clays (CH) representing residual soil material derived from the weathering of basaltic rock. In general, these soils appear to have a low expansion potential. Reddish brown to brown clayey soils (CH) with sand are encountered mainly in alluvial depositional environments, which appear generally confined to topographic low elevations such as depressions and drainage ravines. These soils appear to have a low to moderate expansion potential.

Finally, the dark brown to grayish brown clay (CH) soil is encountered as isolated inland deposits and discontinuous deposits along the lower elevation coastal regions at the southern portion of the project site. These soils may have a relatively high expansion potential. With the exception of the northernmost portions of the project site (northerly of Kamaka ipō Gulch), basalt rock formation is encountered at the ground surface and partly exposed at the ground surface mixed with the soils mentioned previously.

2. *Discrepancies exist in the text for Mala Silty Clay (Mm4) in sub-section 3.3.1... Any final EIS must examine whether or not wells can be dug in Mm4 soil specifically at La au and the resulting environmental and cultural impacts of any such action.*

Response: We are not aware of any impediment to building a well on this type of soil. As MPL does not currently intend to build a well in the project area, and the location of such a well is purely speculative, this question falls outside of the scope of the EIS.

3. *Not all soils present in the proposed project area are discussed... While residential lots are not currently planned where these soils exist, they are part of the project area according to Figures 12-14 and will host an access road and modified intersection on Kaluakoi Road as a component of the proposed project.*

Response: We concur that portions of the access road run along Holomua Silt Loam and Pamoia Stony Silty Clay, eroded. In response to your comment, the following soils descriptions have been added to Section 3.3 of the Final EIS:

Holomua silt loam, 0 to 3 percent slopes (HvA), 3 to 7 percent slopes (HvB), 3 to 7 percent slopes, severely eroded (HvB3) – Holomua soils consist of well-drained soils, developed in volcanic ash and material weathered from andesite rock. They are nearly level to strongly sloping. This soil occurs as large, smooth areas. These soils are used for pineapple and truck crops where irrigation water is available and for pasture and wildlife habitat where water is not available.

For HvA soils, permeability is moderate. Runoff is slow, and the erosion hazard is slight. The available water capacity is about 1.7 inches per foot of soil. In places roots penetrate to a depth of 5 feet or more. Insufficient water is the principal limiting factor. For HvB

soils, runoff is slow and the erosion hazard is slight to moderate. HvA and HvB soils are rated Vc, nonirrigated. HvA and HvB soils occur north of the project area, within the adjacent residential subdivision, and where the project's access road is proposed. For HvB3 soils, runoff is slow to medium and the erosion hazard is moderate. Most of the surface layer and, in places, part of the subsoil have been removed by wind and water erosion. Vegetation is sparse, especially in summer. HvB3 soils are rated Vc, nonirrigated. Only a small portion of the proposed access road, as well as a portion of the Cultural Protection Zone at Kamaka ipō Gulch, will be on this soil.

Pamoia stony silty clay, 5 to 20 percent slopes, eroded (PID2) – This soil is well-drained and gently sloping to moderately steep. Runoff is medium, and the erosion hazard is severe. Both sheet erosion and gully erosion are active. Most of the surface layer has been removed, and gullies are common. The gullies are steep sided, and many extend to the bedrock. The gullies and stones make workability difficult. This soil is used for pasture and wildlife habitat. This soil is rated Vc, nonirrigated. A small portion of the proposed access road contains this soil.

4. *Care and consideration must be given to native flora. Two native plants, lima and/or uhaloa are present on Kaphukianis, Mala, Pamoia, Very Stony Land Eroded, and Holomua soils. Equally ignored is the existence of the native Puakeave on Very Stony Land (rVS) that is also present in the proposed project area. Traditionally, stems, leaves, and root bark of uhaloa are pounded, strained, and used to alleviate sore throat. Many Hawaiians who use non of the other traditional medicinal plants still turn to this one" today. Lima flowers are still used today in lei-making. Additionally, La au is one of five sites in Hawaii where ihi ihi continues to exist. Ihi ihi is included on the state and federal endangered species lists. Any final EIS must take the impacts of the proposed project on these precious native flora into consideration, especially the endangered ihi ihi.*

Response: Section 3.6 of the Draft EIS provided discussion of the native flora observed at the project site. We confirm that 'ihi ihi has been found around Kamaka ipō Gulch. This area is proposed to be re-districed into Conservation District and designated a cultural protection zone, where no development will occur. The area will also be owned and managed by the Land Trust, who will develop and implement a resource management plan for area. To reflect this information in the Final EIS, Section 3.6 (Flora) has been revised as shown in the attachment titled, "Revised Section 3.6 (Flora)."

The native plant species historically known from the project area are capable of existing for decades in the soil seed bank. These species will not be destroyed by the proposed activities, but the soil disturbance may stimulate them to grow in areas where they are not currently seen.

5. *Other uses for soils must be discussed, including the potential for soil-based agriculture... all but two of the soils in the proposed project area may be productively cultivated with other pineapple or sugarcane crops or as pasture. Claiming that all soils in the project area are "poorly suited for soil-based agriculture" is simply inaccurate.*

Response: The West End has historically been dry, as discussed in Section 4.1 and 4.2 of the Draft EIS. Soil-based agriculture at Lā'au is simply not feasible for reasons related to soil, lack of water, terrain, and climate.

Kim Kido
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

As discussed in Section 3.4 of the Draft EIS, 14,390 acres of other MPL lands, mostly in Central Moloka'i, are more suitable for agricultural activities. These lands will be designated through restrictive agricultural easements in favor of the Moloka'i Land Trust.

6. *Weaknesses in the land classification systems are not addressed...the potential of such soils to be productive with irrigation must be considered in any final EIS to make an informed decision regarding Moloka'i's limited water supply. The productivity ratings of this system, like the NRCS Land Capability Classification system, are indexed to the dominant crops of the 1960's. As a result, it does not accurately reflect the potential of the soils under irrigation. Finally, the soils types were drawn over aerial-photos at variable scales. It is possible that other, more fertile soils exist in the area. This limitation should be noted in any final EIS.*

Response: We acknowledge your criticisms of the land classification systems. See our response to #5 above.

7. *The fourth classification system must be discussed. The fourth system, the Land Evaluation and Site Assessment (LESA) System, combines five soil ratings (including the information from the three systems addressed in the DEIS) into a single score to reflect land capability. Each system has rated a different percentage of land suitable for agriculture in the state with LCC at 21% of the agriculture district, LSB at 24%, LESA at 41% and ALISH at 46%. Thus it is vital to take all studies into consideration for the best possible analysis. While there are weaknesses associated with this system like all the others, it accounts for other land use policy considerations, attempts at comprehensiveness, and is the most current in terms of existing conditions. For these reasons, it deserves attention and must be considered in any final EIS.*

Response: We included the three recognized land classification systems in the Draft EIS. To the best of knowledge, no similar LESA statute has been enacted in the State of Hawai'i.

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

Attachment: Revised Section 3.6 (Flora)

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 Kirk Kiaha and I am a senior in the Hawaiian Language Immersion Program at Molokai High School on the beautiful island of Molokai. Under the direction of Mr. Ross, we have each been given a section of the Laau Point Environmental Impact Statement and was then asked that we read our section, explain the main idea of that section as well as come up with several questions pertaining to your given section. Fortunately I was given the section related to Economy. As I read this section there were a lot of things going thru my mind, let me briefly expand on this topic a little.

This piece of information has several ideas as to how this development plan will help to benefit the Molokai community. From reading this I have finally come to a conclusion as to why the Molokai Ranch wants to embark on this development plan. The main reason is to build these million-dollar homes in exchange for enough revenue to fund the renevation of the Kaluakoi Hotel. Do to the increase of unemployment rate on the island the MPL has also made available 1,350 possible jobs for the people of Molokai as a possitive outcome of the plan. This plan will have a chain reaction in which it has been made an opinion that by developing Laau Point as well as renevating the Kaluakoi Hotel it will increase tourism as well as increase revenues for other businesesses on Molokai.

As a Hawaiian living on Molokai I believe that this will have a real possitive impact for our economic growth on the island as well as have an increase in the labor force rate on our island. But on the subject of having to make another development on the very choice land that is consider home to many of our endangered species, wildlife, as well as endangered plants that you cannot see anyother place in the world but on this island is just absurd and I cannot support that issue. But I wish the best to both of the parties in this argument. May the right decision be made to better the life and the future of our future generation for the Molokai community.

Sincerely,
Kirk K. Kiaha

November 1, 2007

Kirk K. Kiaha
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Kirk:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We acknowledge the opinions you shared with us in your letter. Despite your non-support for the project, we appreciate that you understand that the project brings real positive benefits for economic growth and employment.

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

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November 1, 2007

Kodah A. Kalawe-English
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Kalawe-English:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *I understand that if La'au Point gets developed it's anticipated that wastewater will use as much as 20,000-70,000 gallons' s per day. I feel that is way to much water being used for wastewater.*

Response: We acknowledge your comments; however, we believe your concern actually deals with water consumption even though you have used the term "wastewater." Wastewater itself is not "used," it is generated from water use. Therefore, a reduction in water use would result in less wastewater.

The proposed treatment processes of the Lā'au WWTP will not consume 20,000 to 70,000 gallons daily of potable or brackish water to operate, but in fact transform this amount of spent water into high clarity recycled water to be beneficially applied in grounds irrigation where otherwise aquifer water might be used for such purposes. In essence, the WWTP will produce 20,000 to 70,000 gallons of usable water daily.

The project proposes that the primary method of effluent disposal for the Lā'au Wastewater Treatment Plant (WWTP) is beneficial reuse as irrigation water for open space and for soil erosion control in arid areas of this project. Therefore, the effluent produced by the WWTP shall meet the Hawai'i State Department of Health (DOH) R-1 recycled water quality criteria. Recycling wastewater is a form of water conservation because it provides recycled water for non-potable uses, such as irrigation, that otherwise potable (safe drinking) water would have been used for. Wastewater systems that reclaim sewer water for beneficial non-potable uses protect our environment and conserve our water resources that are vital to Hawaii. See Section 4.9.3 of the Draft EIS for full wastewater discussion.

2. *I also understand that La'au Point will use the brackish which means by taking the brackish water that means the salty water will than rise and probably reach the fresh.*

Response: Use of brackish water is considered a mitigation measure for conserving freshwater. Pumping brackish water from the Kakalahale Well will not cause salt water to intrude on freshwater. In West Moloka'i, the basal aquifers do not have a potable water lens

To whom it may concern,

My name is Kodah Kalawe-English. I'm a 12th grade student at Molokai high School. I am writing this in concern of the wastewater that will take place if Lā'au is developed.

I read the Draft Environmental Impact Statement on page 83 on wastewater. I understand that if Lā'au Point gets developed it's anticipated that wastewater will use as much as 20,000 - 70,000 gallons per day. I feel that is to much water being used for wastewater. I also understand that Lā'au Point will use the brackish which means by taking the brackish water that means the salty water will than rise and probably reach the fresh. Another concern I have is about the water conserved for future Hawaiian Homes development. It is promised that the water conserved will not be used, but I feel that because so much water will already be used by Lā'au Point if the water runs low there is no where else to get water so it's self explanatory that they'll have to use water that's there which will later be the water reserved for future Hawaiian Homes development.

Thank you for being able to take time out of your busy schedule to read and understand my thoughts and feelings about the development of Lā'au Point.

Sincerely, Kodah A. Kalawe-English

overlying the salt water with a brackish transition zone in between. Instead, brackish water is encountered at the uppermost layer of the lens.

This situation is also found at the Kākalahale Well site. 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 mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the 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.

Withdrawing brackish water from the Kākalahale Well will not result in a situation where upconing would contaminate a potable water lens.

Rising salinity in certain Moloka'i wells appear to be related to local phenomena associated with particular wells. In particular, the concentrated pumpage of the two DHHL wells (Well Nos. 0801-01 & 02), the County DWS well (Well No. 0801-03) appear to be the cause of chloride rise in these wells.

The DHHL and DWS wells are closely grouped and poorly located relative to each other. All three wells have upgradient/downgradient effects when the DWS well is running while one or the other of the DHHL wells is also operating. A 20 mg/L chloride rise – to levels of about 100 mg/L – in the DHHL wells was an almost immediate response to the start of pumping of the DWS Kualapu'u well in 1991. Chloride levels appear to have been stabilized in all three wells at the higher level.

Well 17 has been in use from 1952 to the present. There has never been a chloride response in the DHHL wells since they began operating in 1961 and 1981, or in DWS well since it began operating in 1991 as a result of pumping the Well 17, even during periods of extended (continuous) pumpage of Well 17 at a 1750 gpm pumping rate (2.5 mgd). The fact that chloride levels for Well 17 have remained stable at about half (or less) the levels in the DHHL and DWS wells is further evidence that pumpage of Well 17 is not producing a chloride response in the DHHL/DWS wells, and vice versa.

The rising chloride levels in Kawela Shaft and 'Ualapu'e Shaft appear to be the result of localized phenomena, and the USGS and Maui County are exploring redistributing and increasing withdrawals to other locations, including locations within the Kawela and 'Ualapu'e aquifers.

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. *Another concern I have is about the water conserved for future Hawaiian Homes development. It is promised that the water conserved will not be used, but I feel that because so much water will already be used by Lā'au Point if the water runs low there is no where else to get water so it's self explanatory that they'll have to use water that's there which will later be water reserved for future Hawaiian Homes development.*

Response: As it has been stated in Section 4.9.2 of the Draft EIS, MPL has often reiterated its recognition of DHHL's priority rights to water, which is a priority established by law.

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 Lā'au Point development.

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)

Kodah A. Kalawe-English
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

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:

Aloha! My name is Kyle Kaiama. I'm a junior at Molokai High School and I'm writing a letter for my Environmental Science Class. This letter we are writing is our feelings and thoughts on the proposal of developing La'au point.

I read this article and my thoughts and feelings toward this was that they used false information, like how they said that there are only eight different types of species that live in that specific area. When was the last time they checked on the different types of species population? Maybe they went the wrong time.

It clearly says that the area has low amount of reef and reef life. The area has a high surf current and the area is exposed to high wave energy and moderate sand movement.

That's why they said there are only a little amount of animal life, but myself being a fisherman that traveled all over this island, have seen a lot of animal life. I've been at La'ua point and fished at that area and seen a lot of animal life there. So I think that your survey on the population on species is miss calculated.

I would like to thank you and everyone else for taking time to read and acknowledging my letter.

Yours truly,

Kyle Kaiama

November 1, 2007

Kyle Kaiama
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Kaiama:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments about the animal and marine life at La'au Point.

1. *I read this article and my thoughts and feelings toward this was that they used false information, like how they said that there are only eight different types of species that live in that specific area. When was the last time they checked on the different types of species population? Maybe they went the wrong time.*

Response: The Draft EIS summarizes a fauna survey, which a biologist recorded species that he directly observed during his visits. In his full report, provided as Appendix C in the Draft EIS, the biologist, however, does allude to the possibility of other likely species that could be found in the area. For example, the biologist did not directly observe pueo during his site visits, but he notes that pueo may be found.

An important aspect of the project is the 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 coastal ecosystem and shoreline habitats within the project area to be protected in the Conservation District. The Land Trust will be in charge of managing La'au Point's Conservation lands.

2. *It clearly says that the area has low amount of reef and reef life. The area has a high surf current and the area is exposed to high wave energy and moderate sand movement. That's why they said there are only a little amount of animal life, but myself being a fisherman that traveled all over this island, have seen a lot of animal life. I've been at La'au Point and fished at that area and seen a lot of animal life there. So I think that your survey on the population on species is miss calculated.*

Response: Please note that the marine survey represents a snapshot in time. However, the conditions observed represent the integration of historic influences on that coast. While there are likely some annual, seasonal, diurnal and perhaps longer-term fluctuations in the apparent abundance and diversity of marine biota, the intent of the survey was to characterize the area in comparison with a range of other coastal habitats around the Hawaiian Islands to determine its uniqueness and/or special qualities.

Kyle Kaiaima
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

We disagree with your opinion that the survey miscalculated. In their comment letter on the Draft EIS, the State Department of Land and Natural Resources, Division of Aquatic Resources confirmed that the methodology employed for the marine biological surveys is sufficient. Section 3.8 (Marine Environment) of the Final EIS has been revised to include the following:

According to their letter dated February 15, 2007, the State Department of Land and Natural Resources, Division of Aquatic Resources stated: "the methodology employed by their subcontractor TEC is consistent with acceptable practices, and very likely akin to what we would have done ourselves if given the task."

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

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Honolulu, HI 96813

COMMENTS ON LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT RELATING TO ADVERSE IMPACTS ON TRADITIONAL AND CUSTOMARY RIGHTS OF NATIVE HAWAIIANS

Prepared by Le'a Malia Kanehe, Esq.¹

These comments address the aspects of the Molokai Properties Limited (MPL) Environmental Impact Statement (EIS) and petition for State Land Use District Boundary Amendment (SLUDBA) related to traditional and customary rights of Native Hawaiians. For clarity, these comments refer to traditional and customary rights of Native Hawaiians (hereinafter "T&C rights"), which include a wide array of interrelated rights associated with cultural and natural resources, sacred and other places of cultural significance, and practices. T&C rights include all rights and practices exercised for subsistence, cultural and religious purposes, including, but not limited to:

- Rights to access lands, beaches and waters and the associated traditional and customary practices undertaken as a part of that access;
- Rights to gather and utilize natural resources (i.e. rights to gather plant material, fishing and utilization of water) and the exercise of traditional and customary practices, ceremonies and rituals as a part of gathering and utilization;
- Rights to access sacred, religious and other culturally significant places and to undertake related practices, ceremonies and rituals;

¹ The author of these comments is a Kanaka Maoli attorney licensed to practice in the State of Hawai'i and is currently a fellow at the Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law.

- Rights to the protection of burial sites and the exercise of associated traditional and customary practices, ceremonies and rituals; and
- Rights to the protection of items of cultural patrimony or cultural heritage, including the traditional, Indigenous knowledge associated with the exercise of the above rights, practices, ceremonies and rituals.

The DEIS itself quotes the Governor's Task Force on Moloka'i Fishpond Restoration (p. 54), which states, in part:

On Moloka'i, subsistence is the customary and traditional uses of wild and cultivated renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, culture, religion, and medicine; for barter, or sharing, for personal or family consumption and for customary trade.

Therefore, on Moloka'i, T&C rights relate to the carrying out of all of these subsistence, cultural and religious activities. All of these traditional and customary rights, the related practices, ceremonies and rituals undertaken in the exercise of those rights, and the associated traditional, Indigenous knowledge used in the exercise of those rights and during those related practices, ceremonies and rituals will be significantly and adversely impacted by MPL's proposed development at La'au Point.

MPL, as the applicant seeking a change to the existing land use designation, must comply with HRS § 343, the Hawai'i Environmental Impact Statement law, which requires disclosure of "the environmental effects of a proposed action, effects of a proposed action on the economic welfare, social welfare, and cultural practices of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects" (emphasis added). Although MPL has included a cultural impact assessment, it's conclusions that the mitigation measures will overcome any significant adverse impacts is flawed.

The T&C rights that would be adversely and irreparably impacted as a result of this project are numerous. The DEIS attempts to minimize adverse impacts on cultural practices by stating that, historically, the West End of Molokai has not been heavily populated (p. 50). Whether an area is heavily populated by humans is certainly not determinative of the impact on the T&C rights of Native Hawaiians. To the contrary, the fact that these lands are not heavily populated is indicative of the Native Hawaiian peoples' recognition that La'au Point is a sacred and culturally sensitive area.

To its credit, the DEIS does accurately recognize that "if Moloka'i is 'The Last Hawaiian Island' then La'au is one of the last untouched Hawaiian places on the 'The Last Hawaiian Island'" (p. 54). Nevertheless, MPL concludes that the impacts of the development will not be significant, based on a reliance on a proposed relationship with another private entity, the Moloka'i Land Trust.

There is more than ample Hawai'i law that indicates that protection of traditional and customary rights and any mitigation of cultural impacts from a project triggering a state

EIS cannot be delegated in such a manner to a private entity. The following section will review the relevant Hawai'i law.

REVIEW OF HAWAII LAW RELEVANT TO TRADITIONAL AND CUSTOMARY RIGHTS

Article XII § 7 of the State of Hawai'i Constitution recognizes that the State "shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights." The Hawai'i Supreme Court has consistently reaffirmed this constitutional protection of traditional and customary rights and further interpreted its meaning.

For example, in 1995, the Hawai'i Supreme Court declared that "[c]ustomary and traditional rights in these islands flow from native Hawaiians' pre-existing sovereignty. The rights of their descendants do not derive from their race per se, and were not abolished by their inclusion within the territorial bounds of the United States."² *Public Access Shoreline Hawaii v. Hawaii County Planning Commission*, 903 P. 2d 1246, 1270 (1995) *cert. denied*, 116 S. Ct. 1559 (1996) (hereinafter PASH or "Kohanaiki").

Hawai'i law requires certain affirmative duties of state and county agencies during permitting processes. Significantly, in the Kohanaiki decision, the Hawai'i Supreme Court held that state and county agencies, "must protect the reasonable exercise of customary or traditional rights that are established." The Court also held that it is "recognition of customary and traditional Hawaiian rights, . . . does not constitute a judicial taking." In *Ka Pa'akai o Ka Aina v. Land Use Commission*, the Supreme Court reaffirmed the PASH/Kohanaiki decision and held that, "state agencies . . . may not act without independently considering the effect of their actions on Hawaiian tradition and practices," 94 Haw. 31, 46, 7 P.3d 1068, 1083 (2000). In *Ka Pa'akai*, the Supreme Court also laid out an "analytical framework in an effort to effectuate the State's obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests." *Id.* 94 Haw. at 46-47, 7 P.3d at 1083-84.

In order for the State to fulfill its duty preserve and protect Native Hawaiian rights, it must make specific findings and conclusions as to the following:

- (1) the identity and scope of 'valued cultural, historical, or natural resources' in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- (2) the extent to which those resources—including traditional and customary native Hawaiian rights — will be affected or impaired by the proposed action; and
- (3) the feasible action, if any, to be taken by [the State] to reasonably protect native Hawaiian rights if they are found to exist.

Id. 94 Haw. at 47, 7 P.3d at 1084.

In *Ka Pa'akai*, upon evaluating the Land Use Commission's (LUC) conduct in the EIS process for the development at issue in that case, the Court found that the State failed to meet its obligations to reasonably protect Native Hawaiian rights because it delegated such duties to a private entity, the Kamehameha Schools/Bishop Estate, even though that entity is a recognized Native Hawaiian trust.

Therefore, in reviewing the MPL EIS and petition for SLUDBA, the LUC must evaluate points (1) – (3) above. The LUC has an affirmative duty to independently consider all the impacts of the proposed La'au Point development on traditional and customary rights and determine how the State will protect Native Hawaiian rights at La'au.³ Based on *Ka Pa'akai*, this duty of protection cannot be delegated to a private entity, whether or not that entity is owned, managed or comprised of Native Hawaiians. MPL proposals to mitigate cultural impacts rest almost entirely on the creation of the Molokai Land Trust (hereinafter "Land Trust") and vesting in that private entity either ownership and/or management rights over "Cultural Protection Zones" and other lands (i.e., p. 51). Therein lies the primary inadequacy of this DEIS in relation to T&C rights.

SPECIFIC COMMENTS ON THE DEIS IN RELATION TO ADVERSE IMPACTS ON TRADITIONAL AND CUSTOMARY RIGHTS OF NATIVE HAWAIIANS

In the DEIS, MPL proposals to mitigate cultural impacts rest almost entirely on the creation of the Molokai Land Trust (hereinafter "Land Trust") and vesting in that private entity either ownership and/or management rights over "Cultural Protection Zones" and other lands (i.e., p. 51).

I. Delegation of Responsibilities to the Molokai Land Trust

Under Hawai'i law, the State has an affirmative duty to protect the traditional and customary rights of Native Hawaiians. Based on the *Ka Pa'akai* case, this duty cannot be delegated to a private entity, whether or not that entity is owned, managed or comprised of Native Hawaiians. Hopefully, the Land Trust would own and manage these areas with the best interests of Native Hawaiians in mind, but that will have no bearing on whether the state is meeting its obligations to protect T&C rights, archaeological sites, or cultural resources.

The DEIS constantly refers to the Land Trust as the delegated manager of cultural and historic sites. Although the DEIS is only limited to 113 acres of the petition area, it nevertheless refers to other vast acreage and easements that MPL will donate to the Land Trust. If MPL insists on referring to that acreage as part of its mitigation measures for cultural impact in the petition area, then that additional approximately 40,000 acres should be considered part of the area subject to Hawai'i EIS law, and consequently should to be included in the EIS.

³ These affirmative duties apply to all state and county agencies vested with permitting authority in relation to this project, however, these specific comments are limited to the LUC and the SLUDBA.

Native Hawaiians possess T&C rights relevant to the use of water. The cultural impact assessment portion of the DEIS does not contain any evaluation of T&C rights as they relate to water use. These impacts need to be addressed consistent with Hawai'i water law, including the Waioala case. For example, what impact does the depletion of water have on taro farming on Molokai (i.e., east end)? Will increased demand for water for development of La'au Point development decrease available water for taro farming or other T&C uses? Will increased demand for water for development of La'au Point development decrease stream flow to north shore valleys' streams and what impact would result to the natural/cultural resources (plants, fish, etc.) that depend on that water?

Furthermore, Molokai has the largest contiguous reef system in the U.S. There are many fresh water springs on these reefs that act as oases of brackish water for the puu that need green limu or diatoms to feed. Wells on the land impact these springs on the reefs with a ratio of 40 to 1. Every foot drop in the water lens caused by land pumping has a 40 foot reduction in the brackish lens at the shoreline. Well-water draw downs have significant adverse impacts on fishermen and limu gatherers on Molokai. This relationship between water use and natural/cultural resource conservation and use has not been addressed in the DEIS.

5. Cumulative & Secondary Impacts - The Big Picture: Longterm, irreversible impact to the entire island of Molokai if La'au Point is developed

HAR 11-200-17 requires an EIS to address "the significant beneficial and adverse impacts (including cumulative and secondary impacts)." The DEIS' Cultural Impact Assessment credits some Molokai residents with forecasting an "irreversible cultural change" if La'au Point is developed as proposed (p. 55). Nothing could be more accurate. If La'au Point is developed, the 200 proposed luxury mansions will not be the only development resulting from the project. There will be a demand by the new owners for retail and service businesses to meet their every need. This means they will want businesses like Costco, Home Depot, chain grocery stores, and fast food restaurants to follow in their footsteps; They will want a larger airport to accommodate direct flights from the U.S. mainland on both commercial and private aircraft. They will want an expanded port to enlarge Molokai's capacity to import everything from food and furniture to building supplies and home furnishings. The proposed La'au Point development cannot be evaluated in a vacuum. These cumulative and secondary impacts must be addressed.

CONCLUSION

MPL's proposed development at La'au Point will have both immediate and long-term impacts to T&C rights, which will undoubtedly devastate the Last Hawaiian Island. Its impacts will be irreversible. One has to wonder then how can any mitigation measure adequately minimize those adverse impacts? Considering the states obligations to affirmatively protect T&C rights, it makes one wonder how the state can justify any permits that would allow La'au to go forward.

A private property owner cannot simply say that they are being good guys on their undeveloped land, and get that benevolent behavior counted as a credit on land that they are seeking to develop. You cannot adversely impact T&C rights, archaeological sites, and cultural resources on one parcel, but be exempted from laws requiring protection of those rights, sites, and resources, because you are promising to be a really "good guy" and protect those same rights on other parcels. Traditional and customary rights of native Hawaiians exist on all lands in Hawai'i, therefore no parcel is exempt. Furthermore, state and county agencies vested with permitting powers have to make findings on the petition area and cannot be asked to take into account supposed mitigation measures undertaken on areas outside the petition area, especially when those additional lands are specifically not included within the EIS document for review by the agency.

2. Mitigation of adverse impacts on burial sites and other archaeological sites

In one breath, the MPL DEIS recognizes that: "The La'au Point parcel contains numerous known archaeological and historic sites, including burials, heiau and habitation sites and complexes" (p. 51). But in the next breath, MPL states that mitigation measures will be put in place and claims that there will be no adverse impacts to archaeological sites (p. 51). Considering the known burial sites and the prevalent sand dune environment of La'au Point, which are commonly known to be important burial areas of Native Hawaiians, the DEIS poorly assesses the adverse impacts and inadequately states what specific mitigation measures will be undertaken to protect both known and unknown (including undocumented) burial sites, including how iwi kupuna and moe pu will be protected from desecration and other desecration (see p. 52).

3. Cultural Resources

The DEIS accurately finds that La'au Point is home to significant cultural/natural resources of importance to Native Hawaiians, including "vast marine resources" (p. 53, namely 'opihī, pupu'awa, pipipi, a ama crab, limu, moi, akolehole, lobster, mullet), "a myriad of heiau and burials" (p. 53), "a coastal trail" providing access to the coastline." On Molokai, perhaps more than other islands, Native Hawaiian families "rely upon subsistence hunting, gathering, or cultivation for a significant portion of their food, or to supplement their daily needs" (p. 54). Furthermore, the entire La'au Point coastline is "important for subsistence fishing and ocean gathering" (p. 55). As such, the DEIS finds that "[t]here will be impacts from the La'au Point project" (p. 58). Nevertheless, MPL concludes, as explained above, that these impacts will not be significant, based on a reliance on a proposed relationship with another private entity, the Land Trust.

4. Impacts to T&C rights relevant to water



Lea Malia Kanehe
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 7

Boundary Amendment petition on Lā'au Point before the Land Use Commission, if approved, would not represent approval of the Master Plan.

The application before the LUC does not ask for the approval of all the Master Plan elements. Furthermore, other aspects of the Master Plan, such as the 50,000+ acres being donated or put into agricultural and open space easements, will not create development; therefore, an environmental review (Chapter 343, HRS) of this action is not "triggered."

3. *A private property owner cannot simply say that they are being good guys on their undeveloped land, and get that benevolent behavior counted as a credit on land that they are seeking to develop. You cannot adversely impact T&C rights, archaeological sites, and cultural resources on one parcel, but be exempted from laws requiring protection of those rights, sites, and resources, because you are promising to be a really "good guy" and protect those same rights on other parcels. Traditional and customary rights of native Hawaiians exist on all lands in Hawai'i, therefore no parcel is exempt. Furthermore, state and county agencies vested with permitting powers have to make findings on the petition area and cannot be asked to take into account supposed mitigation measures undertaken on areas outside the petition area, especially when those additional lands are specifically not included within the EIS document for review by the agency.*

Response: The Lā'au Point project does not adversely impact traditional and customary rights. Section 4.2 of the Draft EIS (page 59-60) provides the various measures in which MPL will enhance subsistence activities over existing conditions.

MPL has consistently stated in the Draft EIS that it will respect all native Hawaiian rights and is taking unprecedented measures to ensure that these rights are respected and maintained. MPL does not suggest that measures outside the project area allow it to impact rights within the project area. The various mitigation plans and measures set out in the Draft EIS address the impacts within the project and mitigation measures taken as part of the project.

Mitigation of adverse impacts on burial sites and other archaeological sites
4. *In one breath, the MPL DEIS recognizes that: "The Lā'au Point parcel contains numerous known archaeological and historic sites, including burials, heiau and habitation sites and complexes." (p. 51). But in the next breath, MPL states that mitigation measures will be put in place and claims that there will be no adverse impacts to archaeological sites (p. 51). Considering the known burial sites and the prevalent sand dune environment of Lā'au Point, which are commonly known to be important burial areas of Native Hawaiians, the DEIS poorly assesses the adverse impacts and inadequately states what specific mitigation measures will be undertaken to protect both known and unknown (including undocumented) burial sites, including how iwi kupuna and moe pu will be protected from disinterment and other desecration (see p. 52).*

Response: Appendix E of the Draft EIS contains the archaeological mitigation plans, including the burial treatment plan. Planning for the placement of house lots and infrastructure has carefully avoided known and likely burial areas. There are protections built into the Monitoring and Burial Treatment Plans that will protect burials from being destroyed, and houses will not be built on burials.

November 1, 2007

Le'a Malia Kanehe
[no address provided]

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Kanehe:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

Delegation of Responsibilities to the Molokai Land Trust

1. *Under Hawai'i law, the State has an affirmative duty to protect the traditional and customary rights of Native Hawaiians. Based on the Ka Pe'akai case, this duty cannot be delegated to a private entity, whether or not that entity is owned, managed or comprised of Native Hawaiians. Hopefully, the Land Trust would own and manage these areas with the best interests of Native Hawaiians in mind, but that will have no bearing on whether the state is meeting its obligations to protect T&C rights, archaeological sites, or cultural resources.*

Response: In this case, as with any other private landowner, the Land Trust will be responsible for adhering to State law. If it does not, the State may take legal action against the Land Trust. This is similar to every other private development in the State. In addition the LUC will require adherence to the various mitigation plans. Under the circumstances, there is no delegation of duty by the State.

We note that the project's CC&Rs, which assign management of the expanded Conservation District to the Land Trust, are not assuming the State's duty to protect the archaeological and cultural sites, but rather the CC&Rs are provided as supplemental to the State's duty. The enforcement of the CC&Rs shall be pursued by the Lā'au Point homeowners' association, affected persons such as the Land Trust who will be a party to the CC&Rs, and in certain situations MPL, as the declarant under the CC&Rs. The CC&Rs will be enforceable by all legal matters.

2. *The DEIS constantly refers to the Land Trust as the delegated manager of cultural and historic sites. Although the DEIS is only limited to 1113 acres of the petition area, it nevertheless refers to other vast acreage and easements that MPL will donate to the Land Trust. If MPL insists on referring to that acreage as part of its mitigation measures for cultural impact in the petition area, then that additional approximately 40,000 acres should be considered part of the area subject to Hawai'i EIS law, and consequently should to be included in the EIS.*

Response: The Lā'au Point Project is one of the elements in the Master Plan. Successful implementation of the overall Master Plan depends on the project's completion. A discussion of the Master Plan is necessary to place into context the breadth of measures available to mitigate the environmental, social and cultural impacts of the project. The State Land Use District

Lā'au Point does not contain Dune Lands according to the NRCS Soil Survey, discussed in Section 3.3.1 of the Draft EIS and as shown on Figure 12 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.

The archaeological plans (Appendix E of the Draft EIS) already address the possibility of finding previously unknown archaeological artifacts and features, as well as burials. The current footprint of the proposed subdivision reflects the strategy of avoiding known and potential burial areas, and at each step of the process they specify the actions that will be taken to protect burials. The plans make it clear that there is no intent to disturb or move burials, and that the latter would only be done were the island Burial Council to request it.

To reflect your comment in the Final EIS, as well as other comments received regarding burial sites, Section 4.1 of the Final EIS has been revised as follows:

To ensure proper resource protection and management in the project area, mitigation efforts will include: 1) the establishment of the Moloka'i Land Trust, an organization tasked with preserving natural and cultural resources within lands deemed to it; 2) conservation easements and cultural overlay districts on MPL lands; and 3) CC&Rs for the Lā'au Point project that would help preserve sites therein and establish procedures for a management partnership between the Lā'au Point homeowners' association and the Land Trust.

MPL has committed to maintain or expand upon previous preservation measures as the landowner's plans have changed in response to the community becoming more involved in the process. It is recognized by MPL that TMK 5-1-008 (Pāpohaku Ranchlands) does not yet have an adequate inventory survey. MPL will survey the Pāpohaku Ranchlands parcels that will be affected by the road corridor through the area. This commitment does not extend into TMK 5-1-002-030. Prior to construction, the archaeologist will re-examine the road corridor and verify descriptions of known sites, gather additional data if possible, and search for unrecorded archaeological deposits or features observable due to changes in surface visibility. After the road corridor re-survey re-examination and supplemental data collection, the proposed subdivision lots and coastal zone will be also be re-surveyed re-examined, following the same methods for investigating and recording sites as described for the road corridor. Additional survey work will be done prior to designation of the road corridor in order to design the corridor to avoid significant sites. Inventory work will be performed in accordance with the Preservation and Monitoring Plans during the road construction period.

Archaeological sites will be treated in one of three ways: preservation, data recovery, or no action. Preservation means avoiding damage to the site whether treatment is passive (avoidance) or active (stabilization, interpretation, and other measures). Data recovery pertains to sites that are significant for their information only, and covers actions such as

mapping, excavation, and surface collection that adequately gather that information. No action is planned for those sites that were deemed not significant in the 1993 Bishop Museum inventory report, such as sites that had been so badly damaged as to eliminate the possibility of determining their original form or salvaging meaningful data.

After the re-surveys re-examinations of the road corridor and project site, short-term site preservation measures will be implemented, such as establishing protective buffers and emergency stabilization. Then, data recovery and long-term preservation measures will be implemented. During construction, monitoring by an approved archaeologist will occur. In their July 5, 2006 comment letter on the EISP, OHA requested that "an archaeological monitor be on-site during all excavation and ground disturbances for this project." The archaeological mitigation plan has been submitted to the State Historic Preservation Division (SHPD) for review. The monitoring plan submitted to SHPD includes a provision for an archaeological monitor to be on-site during all construction activities, including excavation and/or ground disturbances.

The Preservation Plan, Burial Treatment Plan, Monitoring Plan, and Data Recovery Plan are contained in Appendix H. By letter February 13, 2007, SHPD has approved the Data Recovery Plan contained in Appendix H. The other three plans will be submitted in a revised form to SHPD in the near future. The Archaeological Plan in the Draft EIS has been replaced in its entirety by the four aforementioned plans.

Traditional gathering rights and access will not be restricted during construction, except as necessary to ensure safety. In the event access is prevented for safety reasons, alternate access routes will be provided.

Finally, MPL and its contractors will comply with all State and County laws and rules regarding the preservation of archaeological and historic sites. Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during the construction activities, work will cease immediately in the immediate vicinity of the find and the find will be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division, which will assess the significance of the find and recommend appropriate mitigation measures, if necessary. The Moloka'i Burial Council will also be notified of any newly found burials. Should a possible burial be encountered that cannot be planned around, SHPD and OHA will be consulted prior to any testing of the burial.

Cultural Resources

5. The DEIS accurately finds that Lā'au Point is home to significant cultural/natural resources of importance to Native Hawaiians, including "vast marine resources" (p. 53, namely *opihi*, *pupu*, *awa*, *pipipi*, *a'ama* crab, *limu*, *moi*, *aholehole*, *lobster*, *mullet*), "a myriad of *heiau* and *burials*" (p. 53), "a coastal trail" providing access to the coastline." On Moloka'i, perhaps more than other islands, Native Hawaiian families "rely upon subsistence hunting, gathering, or cultivation for a significant portion of their food, or to supplement their daily needs" (p. 54). Furthermore, the entire Lā'au Point coastline is "important for subsistence fishing and ocean gathering" (p. 55). As such, the DEIS finds that "[t]here will be impacts from the Lā'au Point project" (p. 58). Nevertheless, MPL concludes, as explained above, that these impacts will not be significant, based on a reliance on a proposed relationship with another private entity, the Land Trust.

Moloka'i. This relationship between water use and natural/cultural resource conservation and use has not been addressed in the DEIS.

Response: Ground water pumped from the Kākalahale Well will reduce by approximately the same amount the groundwater discharge along the south shore of Moloka'i. Coastal-discharge reductions due to such pumpage generally are greatest immediately downgradient from sites of withdrawal, and effects diminish with lateral distance from the directly downgradient location.

Ground water modeling of proposed pumpage of 1.25 to 1.326 mgd from the proposed Waioala well predicted a reduction in groundwater discharge of 3% over a 13-mile coastline to 15% over a 6-mile stretch of coastline. At that magnitude, the resultant change in salinity at the shoreline will not be distinguishable. For example, in fishponds, which are subject to less sea water influence and mixing, the lowest salinity measured along the south coast of Moloka'i was 28.6 parts per thousand (ppt). Assuming the salinity of the groundwater at the point of the shoreline discharge is 4 ppt, reducing the quantity of discharge by 10 percent would cause a salinity increase in the fishpond of 0.6 ppt, from 28.6 ppt to 29.2 ppt. Such a change is less than the within-day salinity variation in the fishpond due to tides and mixing by wind.

Edible limu is salinity tolerant, i.e., can tolerate wide ranges of salinity. However, limu is more productive in brackish water than in pure seawater, probably because of the nutrients contained in groundwater and surface water discharges. There is a variability in the nutrient concentration of groundwater along the south coast of Moloka'i, varying as much as 18-fold between Kawela and Kamiloa. Human activities, primarily agriculture, probably subsidize the groundwater with nitrates. Assuming that these human subsidies remain unchanged, the effect of groundwater pumpage on nutrient loading to the ocean becomes insignificant. Thus, the reduction of groundwater discharge from the pumping of 1 mgd from the Kākalahale well is unlikely to have a significant impact on limu production.

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, "Additional Information on the Kākalahale Well."

Cumulative & Secondary Impacts – The Big Picture: Long-term, irreversible impact to the entire island of Moloka'i if La'au Point is developed

8. HAR 11-200-17 requires an EIS to address "the significant beneficial and adverse impacts (including cumulative and secondary impacts)." The DEIS "Cultural Impact Assessment credits some Moloka'i residents with forecasting an "irreversible cultural change" if La'au Point is developed as proposed (p. 55). Nothing could be more accurate. If La'au Point is developed, the 200 proposed luxury mansions will not be the only development resulting from the project. There will be a demand by the new owners for retail and service businesses to meet their every need. This means they will want businesses like Costco, Home Depot, chain grocery stores, and fast food restaurants to follow in their footsteps; They will want a larger airport to accommodate direct flights from the U.S. mainland on both commercial and private aircraft; They will want an expanded port to enlarge Moloka'i's capacity to import everything from food and furniture to building supplies and home furnishings. The

Response: We acknowledge your comments. The Draft EIS contains numerous mitigation plans and measures to ensure the impact of the project will be minimized. Similar to every other private development, the burden of adhering to the plans falls on private entities. In this case, the community is given the added assurance of overseeing the Land Trust.

Impacts to T&C rights relevant to water

6. Native Hawaiians possess T&C rights relevant to the use of water. The cultural impact assessment portion of the DEIS does not contain any evaluation of T&C rights as they relate to water use. These impacts need to be addressed consistent with Hawai'i water law, including the Waioala case. For example, what impact does the depletion of water have on taro farming on Molokai (i.e., east end)? Will increased demand for water for development of La'au Point development decrease available water for taro farming or other T&C uses? Will increased demand for water for development of La'au Point development decrease stream flow to north shore valleys' streams and what impact would result to the natural/cultural resources (plants, fish, etc.) that depend on that water?

Response: The Cultural Impact Assessment (Appendix F in the Draft EIS) discusses the potential cultural impacts of the drawing out of 1 mgd of brackish water from the Kākalahale well on pp. 125 - 135. Section 4.9.2 and Appendix P of the Draft EIS provide more detailed information on the proposed water plan and potential impacts.

As a first step in finding solutions for the sustainable use of water on Moloka'i, 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.

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. Therefore, the project will not "decrease available water for taro farming or other T&C uses."

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 sections of the attachment titled, "Additional Information on the Kākalahale Well" and "Waioala Well Issues Raised."

7. Furthermore, Moloka'i has the largest contiguous reef system in the US. There are many fresh water springs on these reefs that act as oasis of brackish water for the pua that need green limu or diatoms to feed. Wells on the land impact these springs on the reefs with a ratio of 40 to 1. Every foot drop in the water lens caused by land pumping has a 40 feet reduction in the brackish lens at the shoreline. Well-water draw downs have significant adverse impacts on fishermen and limu gatherers on

Lea Malia Kanehe
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 7 of 7

proposed Lā'au Point development cannot be evaluated in a vacuum. These cumulative and secondary impacts must be addressed.

Response: We have made a good faith effort to prepare an EIS in compliance with Chapter 343 and the underlying regulations found in HAR §11-200-1 et. seq. We concur that the Draft EIS must address cumulative impacts, the secondary and non-physical effects of a proposal and the socio-economic consequences of a proposed action. We have done so to the greatest extent possible in this EIS. Section 7.2 of the EIS addresses cumulative and secondary impacts. Many of the impacts you refer to above are speculative and/or not supported by any of our analysis.

Your assertion that the Lā'au Point project will eventually lead to big box retailers, chain grocery stores, and fast food restaurants is unfounded. First, the level of new population due to Lā'au Point is not significant to cause major social impact. As discussed in Section 4.8.1 of the Draft EIS, the project's permanent population at build-out is estimated at 174 persons, which is only two percent of the forecasted 2025 population. We do not believe that Costco or Home Depot would choose to establish a location in Moloka'i for this level of population increase.

Second, you state that Lā'au Point will not be the only development resulting from the project. You are correct; the largest development under consideration is DHHL's proposal for 417 new residential homesteads and over 600 agricultural lots. These new developments are independent of Lā'au Point, and would have a greater influence on the market for new commercial and food establishments than the Lā'au Point project.

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 4.9.2 (Water)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Whitten, PBR HAWAII

From: Lehua [mailto:nale@hele.net]
Sent: Sunday, January 21, 2001 1:14 PM
To: Tom Schnell
Cc: luc@dbedt.hawaii.gov; oecq@ddoh.hawaii.gov
Subject: Laau Point draft EIS

Dear sirs,

In the final EIS please address the following in more detail:

- * A water use of 500-600 gpd potable and ~1500 gpd non-potable per lot is proposed. Compared to 560 gpd for 2 condo dwellers and 5308 gpd for papohaku ranchlands, this seems very unrealistic. These estimates are based on proposed draconian rules regarding efficient water use.
- * Are swimming pools: Potable? non-potable?
- * Forbidden? Lawns? Fruit trees? gardens? Will there be inspectors going on private parcels citing people for water infractions?
- * conservation rate blocks. True that conservation water rates have proven to substantially reduce use on Molokai.

The potential buyers may be very different from present water users. Because of foreign ownership, many buyers may be nationals of various foreign countries. These may be countries with deplorable environmental records. These may be countries where the super rich are used to getting whatever they want regardless of cost to themselves or harm to the environment. Of course US citizens can be of that category also. Resale of lots may drive

prices to exorbitant heights. People who can pay these prices may just decide to pay for all the water they want regardless of rate. Will meters be shut if usage is excessive? They may easily pay rates that can support desalination. Desalination is a heavy consumer of electricity, quoted at \$.30 kWh. This current rate is from an overburdened facility using fossil fuel.

What will a huge additional demand do to these already high rates and overburdened facilities? Will

MPL build

its own power plant to support desalination.

- * MPL promises to relinquish MIS water, if required by DHHL, while maintaining this is an unlikely scenario.

What will be the cost and delay to DHHL should this

- * "unlikely" scenario occur. Court costs, etc? Elaborate.

* Need more detailed studies of water table and salination in East Molokai in relation to Kakahale Well. Especially

in relation to drought of recent decades.

Specifically, taro farmers in the Kainaha pond area are reporting crop damage due to salt water ingress into coastal wetland ponds. These Kainaha wetland taropatches need to be included in final EIS. If this salination is already occurring due to natural drought conditions without any use of Kakahale Well, then would any well use exacerbate this condition?

- * If Kakahale Well use does degrade East Molokai Water table will shutdown of well be required?

* Will actual gpd of well water withdrawal be measured

by the County Water Dept, or will the water dept rely

on measurements made by MPL employees?

- * A 30% occupancy rate is based on other West end developments. That assumes mainly retired US citizens.

That "some of the buyers may not be from Molokai" is

a huge understatement. Based on MPL far east

affiliations. Many may be from Various foreign countries including far eastern countries, some with atrocious environmental and human rights records. These people may be even less able to understand Molokai culture and lifestyle than the elderly retired US citizens. These people may be young and very

wealthy

with large families, entirely unlike the deis assumptions. The burden on infrastructure could be far greater than assumed. Final EIS needs to look at what these type of far east buyers are already doing to parts of Honolulu

like Waialae Kahala. Older 2000 sq ft houses on lots are being torn and replaced with 2 story monstrosities which max out the allowable set back and height. All plants removed, just a few feet

of concrete between house and fence. The final EIS needs to take a look at what foreign development is doing to Honolulu. These are not the "empty nesters" assumed in the DEIS.

- * The final EIS needs to look at how other countries handle these issues. Ireland does not allow any building in rural areas except by persons who can prove

ancestral ties to the local community. Foreigners can buy land but can not build a house unless they can prove acceptance by the local community. Ancient burials

and ruins are strictly protected. Foreigners can buy urban developed properties or condos, however.

Foreigners cannot own a major interest in Phillipines land the ownership of condos on leased land is permitted,

otherwise much of the population of some smaller islands could be dispossessed. Many foreign countries have land use regulations which make any difficulties MPL faces at

La'au look insignificant.

- * The Final EIS needs to look at what is presently happening in Honolulu which is much more realistic than "empty nester" scenario envisioned. Water use, traffic schools, medical needs can easily be 2 or 3 times

what is presently assumed.

Hopefully this will be helpful in preparing the final EIS. If I may be of help please email me or call Lehua Shelley

at 808 9550307 or 808 8528561 or write me at: PO box 113, Kualapuu, HI 96757

or: PO Box 11391, Honolulu HI 96828

Acknowledgement of receipt is appreciated.

Sincerely, Lehua Shelley



Ms. Lehua Shelley
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 5

November 1, 2007

Lehua Shelley
P.O. Box 113
Kualapu'u, Hawai'i 96757

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Shelley:

Thank you for your e-mail regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We would like to respond to your comments.

1. A water use of 300-600 gpd potable and ~1500 gpd non-potable per lot is proposed. Compared to 560 gpd for 2 condo dwellers and 3508 gpd for Fāpōhaku ranchlands, this seems very unrealistic. These estimates are based on proposed draconian rules regarding efficient water use.

Response: The water demand estimates are based on a water expert's calculations, and are according to Maui County's domestic potable water use guidelines.

2. Are swimming pools: Potable? non-potable? Forbidden? Lawns? Fruit trees? gardens? Will there be inspectors going on private parcels citing people for water infractions?

Response: The CC&Rs contain obligations that will encourage conservation. Swimming pools, fruit trees, and lawns will be at the discretion of the homeowner within the limits contained in the CC&Rs. Impacts on the individual water allocations will have to be handled by the individual homeowner. Enforcement is always an issue with voluntary programs; however, we believe that the education program and the type of person who will be attracted to Lā'au should result in relative compliance. The Land Trust is a party to the CC&Rs and can enforce their provisions, including the restrictions on water use.

As of November 2007, a draft of the CC&Rs was 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. Conservation rate blocks. True that conservation water rates have proven to substantially reduce use on Molokai. The potential buyers may be very different from present water users. Because of foreign ownership, many buyers may be nationals of various foreign countries. These may be countries with deplorable environmental records. These may be countries where the super rich are used to getting whatever they want regardless of cost to themselves or harm to the environment. Of course US citizens can be of that category also. Resale of lots may drive prices to exorbitant heights. People who can pay these prices may just decide to pay for all the water they want regardless of rate. Will

meters be shut if usage is excessive? They may easily pay rates that can support desalination. Desalination is a heavy consumer of electricity, quoted at \$.30 kWh. This current rate is from an overburdened facility using fossil fuel. What will a huge additional demand do to these already high rates and overburdened facilities? Will MPL build its own power plant to support desalination.

Response: As 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 Molokai, 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'aina (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.

Potential buyers will be made aware of the strict CC&Rs, which will include the stringent water conservation measures. Therefore, it is expected that Lā'au Point lot buyers will have respect for the environment and water conservation.

4. *MPL promises to relinquish MIS water if required by DHHL, while maintaining this is an unlikely scenario. What will be the cost and delay to DHHL should this "unlikely" scenario occur. Court costs, etc? Elaborate.*

Response: MPL does not use MIS water; it rents space in the MIS to transmit its water. MPL "pays" the MIS system 18,000 gpd everyday to take into account the evaporation of water when it is in the MIS reservoir. We cannot answer your question regarding the "unlikely" scenario because it is unknown.

5. *Need more detailed studies of water table and salination in East Molokai in relation to Kākalahale Well. Especially in relation to drought of recent decades. Specifically, taro farmers in the Kainaohē pond area are reporting crop damage due to salt water ingress into coastal wetland ponds. These Kainaohē wetland taro patches need to be included in final EIS. If this salination is already occurring due to natural drought conditions without any use of Kākalahale Well, then would any well use exacerbate this condition? If Kakaohale Well use does degrade East Molokai Water table will shutdown of well be required?*

Response: The Cultural Impact Assessment (CIA), which was provided as Appendix F in the Draft EIS, discusses the potential cultural impacts of the drawing out of 1 mgd of brackish water from the Kākalahale well on pp. 125 - 135. The Water Plan Analysis, provided as Appendix P in the Draft EIS, provides more detailed information on the proposed water plan and potential impacts.

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.

Within the dike-free lava flows, a freshwater lens floats on denser, underlying saltwater. Saltwater flows landward in the deeper parts of the aquifer, rises, and then mixes with seaward-flowing freshwater, creating a freshwater-saltwater transition zone. Under hydrostatic conditions, the thickness of the freshwater lens can be estimated by using the Ghyben-Herzberg relation, which predicts that every foot of freshwater above sea level must be balanced by 40 feet of freshwater below sea level. The Ghyben-Herzberg relation is sometimes used to estimate the depth at which brackish water in the transition zone has a salinity of about 50 percent of seawater.

USGS drilled a deep monitor well in the Kualapu'u area and collected salinity profiles from this well from 2001 to 2004. Measured salinity profiles indicate a freshwater lens of about 260 to 290 feet thick. The upper part of the freshwater-saltwater transition zone generally is about 150 feet thick. Based on modeling studies done, pumping 1.25 mgd from the proposed Waiola well would decrease water levels by 0.17 to 0.32 feet, indicating a rise in the transition zone of less than 15 feet.

During the Waiola contested case, some were of the view that the predicted water level declines will have an adverse effect on DHHL's existing wells in Kualapu'u because they believe the transition zone is near the bottom of DHHL's wells. That view, however, was discounted by the Water Commission in the Waiola contested case. On appeal to the supreme court, the court concurred with the Water Commission, explaining that ground water models from both the Waiola's consultant and the USGS predicted that the water level declines at the existing well locations were not significant enough to have any effect on the quality of quantity of water withdrawn from DHHL's existing wells in Kualapu'u; that DHHL's experts (USGS) testified that the predicted drawdown level at the Kualapu'u wells resulting from pumping 1.326 mgd at the proposed Waiola well site was "likely to be less than normal seasonal fluctuations of groundwater level and of the same order of magnitude of normal semi-diurnal water level fluctuations created by varying barometric pressure"; and that DHHL's own proposal to pump an additional 900,000 gallons from its Kualapu'u wells belied its concern that the top of the transition zone was near the bottom of the wells. 103 Haw. 401 at 435.

The salinity profiles collected from the deep monitor well subsequent to the Waiola contested case confirm the Water Commission's conclusion inasmuch as DHHL's Kualapu'u wells extend to a depth of 90 feet below sea level, well within the freshwater lens.

Kākalahale Well is 1.5 miles downslope of the proposed Waiola well site and down gradient from the Kualapu'u well field. To date, there has been no modeling study of the impact of pumping 1 mgd from the Kākalahale well on existing wells. However, based on the location of the Kākalahale well in relation to the proposed Waiola well, extrapolations from the Waiola modeling studies can be applied to Kākalahale, especially in view of the fact that the models were run on the assumption that there are no intrusive structures between the Waiola

well site, the Kākalahale well and the Kualapu'u well field. In addition to the modeling studies of the proposed Waiola well, USGS has more recently conducted other ground water modeling studies of water withdrawals from other potential well sites in the Manawainui, Kawela, and Kamiloa aquifers. Based on available data and modeling studies that have been done, it is unlikely that pumping 1.0 mgd from the Kākalahale Well will raise the transition zone so as to adversely affect the ability to sustain current pumpage at the existing wells in Kualapu'u.

To reflect the above information in the Final EIS, 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)."

6. Will actual gpd of well water withdrawal be measured by the County Water Dept. or will the water dept rely on measurements made by MPL employees?

Response: The County does not own the Kākalahale Well or have the power of approval. The Commission on Water Resource Management has jurisdiction on all water permits.

7. A 30% occupancy rate is based on other West end developments. That assumes mainly retired US citizens. That "some of the buyers may not be from Molokai" is a huge understatement. Based on MPL far east affiliations, many may be from various foreign countries including far eastern countries, some with atrocious environmental and human rights records. These people may be even less able to understand Molokai culture and lifestyle than the elderly retired US citizens. These people may be young and very wealthy with large families, entirely unlike the deis assumptions. The burden on infrastructure could be far greater than assumed. Final EIS needs to look at what these type of far east buyers are already doing to parts of Honolulu like Waialae Kohala. Older 2000 sq ft houses on lots are being torn and replaced with 2 story monstrosities which max out the allowable set back and height. All plants removed, just a few feet of concrete between house and fence. The final EIS needs to take a look at what foreign development is doing to Honolulu. These are not the "empty nesters" assumed in the DEIS.

Response: As stated in #3 above, Lā'au Point is targeted to conservation-minded buyers.

You characterize new buyers as wealthy foreigners who may be young and may originate from countries that do not promote environmental protection. This is an inaccurate portrayal of possible new buyers at Lā'au Point. The economic impact study indicates that Lā'au Point buyers are typically expected to be in their pre-retirement or retirement years with very few or no school-aged children.

We disagree that analyzing Honolulu as a case study for what might happen on Molokai. Honolulu's history, growth, settlement patterns, and demographic profile have no comparable value to what is proposed for Lā'au Point.

8. The final EIS needs to look at how other countries handle these issues. Ireland does not allow any building in rural areas except by persons who can prove ancestral ties to the local community. Foreigners can buy land but can not build a house unless they can prove acceptance by the local community. Ancient burials and ruins are strictly protected. Foreigners can buy urban developed

Ms. Leahua Shelley
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 5 of 5

properties or condos, however. Foreigners cannot own a major interest in Philippines land, the ownership of condos on leased land is permitted, otherwise much of the population of some smaller islands could be displaced. Many foreign countries have land use regulations which make any difficulties MPL faces at La'au look insignificant.

Response: We acknowledge your opinions; however, discussions and comparison of foreign communities is not required for the EIS.

9. *The Final EIS needs to look at what is presently happening in Honolulu which is much more realistic than "empty nester" scenario envisioned. Water use, traffic schools, medical needs can easily be 2 or 3 times what is presently assumed."*

Response: We respectfully disagree with your comment. Honolulu's present situation does not provide a realistic or equal comparison to this project.

Thank you for reviewing the Draft EIS. Your e-mail 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



January 16, 2007

Leila Stone
HC01 Box 760
Kaunakakai, Hawaii 96748

SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Ms. Stone *Leila*

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
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control

Dear Sir,

As a concerned citizen of Molokai, I am requesting for a 60 day extension of the Lā'au Pt. (EIS) Environmental Impact Statement.

Leila Stone
John Sabas
HC01 Box 760
Kaunakakai, HI 96748

Central delivery
Kauaetaki, Molokai, HI 96748



for the people who are asking for
a session on the Lā'au Point Meeting Community, public
Meeting and I am against the development
of Lā'au Point Thank you for listening to me
Comments.
John Lopez Ocampo

January 16, 2007

Lopaka Ocampo
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. Ocampo:

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
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control

Loretta Ritte
P.O. Box 486
K'ka'i, HI
96748

January 9, 2007
Molokai

Aloha Mr. Witten,

I am asking for a 60 day extension of the Lā'au Pt EIS public comment period. The EIS was released on Dec. 23, 2006 right in the middle of the busy holiday season. This does not give us enough quality time to delve into this very large EIS Book.

Mahalo,
Loretta Ritte



January 16, 2007

Loretta Ritte
P.O. Box 486
Kaunakakai, Hawaii 96748

SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Ms. Ritte: *Loretta Ritte*

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 Chung, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control



Molokai
Properties
Limited

To Whom It May Concern:

My name is Lorina Young, I am 17 years old and currently a senior at Molokai High School. This assignment was given to me by my environmental science teacher, Kurnu Mahina Hou I was born and raised on this island and I can recall as a child walking through our little Kaunakakai town and recognizing every face that crossed my way, but as the years passed and I started to enter adulthood the faces began to change and the feeling of security that caused me to keep my car door unlocked faded.

I feel that La'au development is a gateway to more and more development, I also feel that it will affect our generation the most, being that we will have to grow up and live with it, we will have to see and remember what was once a beautiful paradise turned into a Lahaina or waikiki.

These changes concern me and I'm preparing myself to see more, but my eyes can only handle so much before they start to water. I want to be able to come home from the big city life and see my paradise, my home sweet home, my Molokai where life is suppose to be simple. These changes are also destroying the heart of our community, the people who were once friends that represented the name "The Friendly Isle" are now fighting against each other for difference in opinions, it breaks my heart to see such a strong split in the community. I want to be able to come home after college and raise my children in a quite and safe community, where I can trust that no one will try to take them or hurt them in any way.

I strongly do not encourage development on La'au point, I feel that it will only destroy what is left of our Hawaiian Culture which is our job as Hawaiians to preserve, and if you take that away, the Hawaiian style of living will die. Oahu is nothing but a concrete jungle, Maui is quickly becoming an Oahu, how about you leave Molokai, Molokai. I humbly ask that you consider saving our island instead of turning it into a city.

Thank you for taking the time to read over my letter, I hope and pray that it will make a change in Molokai's future, but I know one thing for sure, I will always remember my senior year as the year I wrote a letter and tried to SAVE LA'AU

Sincerely,

Lorina S.M. Young

November 1, 2007

Lorina S.M. Young
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawaii'i 96729

SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Young:

Thank you for your letter regarding the La'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *I feel that La'au development is a gateway to more and more development. I also feel that it will affect our generation the most, being that we will have to grow up and live with it, we will have to see and remember what was once a beautiful paradise turned into a Lahaina or Waikiki. These changes concern me and I'm preparing myself to see more, but my eyes can only handle so much before they start to water. I want to be able to come home from the big city life and see my paradise, my home sweet home, my Molokai where life is suppose to be simple.*

Response: The La'au Point project is not a "gateway to more and more development" as you presume. On the contrary, the project and the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), which the project is a part of, will prevent development on a majority of the land. Benefits of the project include the donation of 26,200 acres to a Molokai Land Trust and Community Development Corporation, restrictive easements on another 24,000 acres of Molokai Ranch land, preservation of cultural and archaeological sites, increased subsistence gathering access, and permanent parks and open space. Appendix A of the Draft EIS contains the Master Plan in its entirety.

2. *These changes are also destroying the heart of our community, the people who were once friends that represented the name "The Friendly Isle" are now fighting against each other for difference in opinions, it breaks my heart to see such a strong split in the community. I want to be able to come home after college and raise my children in a quite and safe community, where I can trust that no one will try to take them or hurt them in any way.*

Response: We acknowledge your comments, but we do not believe it is the project that is splitting the community. The community division will exist with or without this project because there are community members that want to see positive, controlled economic growth for the island (such as those that participated in creating the Master Plan) and there are community members that want to keep the status quo. There are both supporters and opponents to this project, as there will always be with every project.

The overall Master Plan is not a perfect plan. However, it is still "truly a grassroots community plan which represents a historic good faith effort on the part of Molokai Properties Limited and Ke Aupuni Lōkāhī-Moloka'i Enterprise Community to create sustainable economic solutions

Lorina S.M. Young
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

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).

3. *I strongly do not encourage development on La'au Point, I feel that it will only destroy what is left of our Hawaiian Culture which is our job as Hawaiians to preserve, and if you take that away, the Hawaiian style of living will die. Oahu is nothing by a concrete jungle, Maui is quickly becoming an Oahu, how about you leave Molokai, Molokai. I humbly ask that you consider saving our island instead of turning it into a city.*

Response: As previously stated in response #1 above, the project and the Master Plan will prevent development on a majority of the land. This project will not turn Molokai into a "city." Regarding your concern about the loss of Hawaiian culture, an agreement between MPL and the Molokai 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 (see Section 2.3.7).

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

Louise M. Bush
P.O. Box 121
Ho'olehua, HI 96729

February 21, 2007

Aloha Kākou,

I am writing this letter concerning the request from Moloka'i Properties Ltd., who filed a 1,000-plus page draft environmental impact statement for its controversial plan to develop high-end housing lots at Lā'au Point, Moloka'i. It is important for me that I share my own personal feelings and understanding of Lā'au Point and why it means so much to me as a "kanaka maoli".

I was born on Moloka'i, raised on O'ahu and returned to Moloka'i as an adult. In September 1983, I was blessed to receive a one acre Hawaiian homestead property in Ho'olehua, Moloka'i, lot 44 B2 Pu'ukepele Avenue. This was the ultimate blessing for me, since my return to Moloka'i was for this purpose in particular. I have now been residing on this property for the past 23+ years and know that Moloka'i will be my final resting place. Because of my aloha for this 'āina I know my responsibility in sharing my concerns regarding this project.

First, as a Hawaiian homesteader it has been determined through an Intervening process that we do have legal rights to 2/3rd of the water. In 1996 the Waiola Inc. (a utility company of Moloka'i Ranch Ltd. or Moloka'i Properties Ltd.) filed for a permit to dig, pump, and transport water from Kamiloa area (the central area of Moloka'i) to the West End. Due to a need that Moloka'i Ranch/Properties Ltd. had because of their plans for their lands on the West End. However, in 1996, there was **NO MENTION** of the Lā'au project. Therefore, if they are saying they do not need water because they have sufficient supply, then my concern would be why did they need more water in 1996, without this project on the list. In other words, I'd like to know if in about 5 to 10 years, will they have a need for more water.

Our homestead farmers can testify that many times in the past years they've been asked to "conserve" the water. This tells me that we as homesteaders are being asked not to use the water which is rightfully ours, by virtue of our 2/3rd rights. The Department of Hawaiian Home Lands has also gone in to request for more water, due to the additional homes that have and are being built. However,

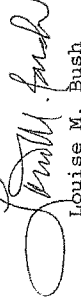
Moloka'i Ranch Ltd. intervened on that request. So what is the water situation for Moloka'i, does Moloka'i Ranch/Properties Ltd. have the water that they need and for how long before they request for more water.

Second, this reason is very dear to my heart because as a kanaka maoli I know that my ancestors would not be happy if I did not speak up on their behalf and those yet to be born. I have been taught the importance of this place "Lā'au" and the role that it played in the history of my people. In Moloka'i Makahiki traditions, we have been taught by the late Kumu John K. Ka'imikaua that the opening ceremony for the Makahiki season was at the most eastern part of Moloka'i known as Kapu'upo'i, and the closing ceremony took place at Lā'au. I know and understand that when a place was chosen for any purpose, it was because of the spiritual connection that it had for the people and that which was to take place. My ancestors knew there was a supreme being and they had a personal relationship with him. They also understood that their role was to be stewards over the 'āina, and therefore, it was important that they stay connected to him, so that they would know and understand what they would need to do.

Just as my ancestors had a responsibility to this Supreme Being, I to have a responsibility to him and to my kupuna and those yet to be born. I therefore, ask that you review this EIS with much consideration and concern for us who will live and die here on Moloka'i.

Mahalo nui loa for your time and consideration.

Yours truly,



Louise M. Bush



Louise Bush
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

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 comment above, 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."

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

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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November 1, 2007

Louise Bush
P.O. Box 121
Ho'olehua, Hawai'i 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Bush:

Thank you for your letter dated February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments and offer the following responses.

1. In 1996 the Waiola Inc. (a utility company of Molokai's Ranch Ltd. or Molokai's Properties Ltd.) filed for a permit to dig, pump, and transport water from Kamiloloa area (the central area of Molokai) to the West End. Due to a need that Molokai's Ranch/Properties Ltd. had because of their plans for their lands on the West End. However, in 1996, there was no mention of the Lā'au project. Therefore, if they are saying they do not need water because they have sufficient supply, then my concern would be why did they need more water in 1996, without this project on the list. In other words, I'd like to know if in about 5 to 10 years, will they have a need for more water.

Response: MPL's projections were based on development plans put forth by prior management. Projections at that time did not include the use of non-potable water sources as we are proposing now.

2. Our homestead farmers can testify that many times in the past years they've been asked to "conserve" the water. This tells me that we as homesteaders are being asked not to use the water which is rightfully ours, by virtue of our 2/3 rights. The Department of Hawaiian Home Lands has also gone in to request for more water, due to the additional homes that have and are being built. However, Molokai's Ranch Ltd. intervened on that request. So what is the water situation for Molokai's, does Molokai's Ranch/Properties Ltd. have the water that they need and for how long before they request for more water.

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 Kalamā'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 upcoming 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.

Study file #15
Comments

8-Max
Feb 22, 07
LAND USE COMMISSION
STATE OF HAWAII

To: Anthony Chung
State Land Use Commission
From: Max
Pro-Failed Purdy
Born and raised on Nihoa
3rd generation home-steader

FEB 26 P 2:45
(LAW OFFICE)
but one of two
postmarks 2/23

Subject: Request for Comments, Draft
Environmental Impact Statement
(DEIS) for the Lanu Pt. Project
located at TMK: 5-1-002 & 030
(Portion), Kaula Kai, Island of
Nihoa, Hawaii (EAC 2006/0017)
(CPA 2006/0009) (I2 2006/0015)
(SM1 2006/0040) (CUP 2006/0005)

Here are a few comments and
questions.

Page: 56 Subsistence Fishing and
Gathering: paragraph #5

1. Who are the informants?
2. Why isn't the Department of Land
and Natural Resources or Native
Conservation addressing or enforcing
laws on this issue of over-fishing?

- II

Page 57 Cultural Resources and Practices
paragraph #2 Feb 22, 07

1. How will the discovery of the
rare 'ihi plant be addressed?
2. Where is the exact location of
this rare native plant?
3. What will happen to it now?
4. Why wasn't it discovered during
the surveying and studying process
of Lanu Pt.?
5. Because it is an endangered species,
it is protected by and under Federal
law. This will surely have an effect
on the project.

a) How long will it take to address
this issue?

b) Will there be open meetings to
discuss with the community on
the findings of this native plant?



Molokai Properties Limited

November 1, 2007

Makaïla Purdy
P.O. Box 94
Kualapu'u, Hawaii 96757

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Purdy:

Thank you for your letter dated February 22, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

Page 56 *Subsistence Fishing and Gathering: paragraph #5*
1. *Who are the informants?*

Response: As discussed in Section 4.2.3 of the Draft EIS, community meetings were held island-wide to discuss cultural resource issues. In addition, individuals were interviewed about their experience and knowledge of Lā'au Point. The 18 informants with whom Professor McGregor conducted in-depth semi-structured interviews were eminently qualified as kama'āina of Maunaloa, employees or relatives of Molokai Ranch employees, employees or relatives of employees of the former plantation, a descendant of the lighthouse keeper, a descendant of the Cooke family who owned Molokai Ranch. Professor McGregor also met with the Maunaloa kupuna during a meeting with the social impact study consultant and with the committee responsible for the MPL beach access policies. In addition, a total of 250 persons attended community meetings. Careful notes were taken and their input included in the Cultural Impact Assessment.

These individuals were asked about their knowledge of natural and cultural resources in the area, their subsistence and cultural activities there, the impact of the proposed development on the identified natural resources and their activities, their concerns about the water plan, and their overall assessment of the project.

A general synopsis of the interviews was provided in Section 4.2 of the Draft EIS. The full Cultural Impact Assessment Report, including anecdotal information obtained during the study, was provided as Appendix F of the Draft EIS.

2. *Why isn't the Department of Land and Natural Resources or Nature Conservancy addressing or enforcing laws on this issue of overfishing?*

Response: As recommended in the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan), 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 Moloka'i residents will be able to fish for subsistence,

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
Telephone 808.531.0158 • Facsimile 808.521.2279

Feb. 22.07

Page 57 *Spiritual Renewal*
paragraph #3

1. *By developing Lā'au pt. how will it benefit the majority of the people of Molokai maintain the "spiritual image and power"?*

Page 57 *Water*

About 3 weeks ago on channel 14 CNN world news, scientist from all over the world assembled in a meeting to discuss solutions on "Global Warming". They claim that by the year 2080 the entire world will experience a water shortage. 1-3 billion people will be affected including Hawaii.

1. *How is MPL going to address this world-wide issue?*

2. *Will there really be enough water to fit the 100 year plan?*

3. *What will and how can MPL help contribute to some of the solutions of "global warming"?*

Makaïla Purdy

mail response to:
Makaïla Purdy
P.O. Box 94
Kualapu'u, HI 96757

Makaila Purdy
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

effectively banning off-island boats from fishing in these in-shore areas. The following will be added to Section 2.3.7 in the Final EIS:

Special Legislation will not be required to establish the subsistence fishing zone. 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 the Master Plan 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 Moloka'i, 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 Master Plan 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 Moloka'i Land Trust.

The Nature Conservancy is a private organization that does not have jurisdiction at Lā'au Point or fishing.

Page 57 Cultural Resources and Practices: paragraph #2

1. *How will the discovery of the rare 'ihi'ihī plant be addressed?*
2. *Where is the exact location of this rare native plant?*
3. *What will happen to it now?*
4. *Why wasn't it discovered during the surveying and studying process of Lā'au Point?*
5. *Because it is an endangered species, it is protected by and under Federal law. This will surely have an effect on the project. A) How long will it take to address this issue? B) Will there be open meetings to discuss with the community on the findings of this native plant?*

Response: Section 3.6 of the Draft EIS discusses impacts and mitigation measures for flora, including 'ihi'ihīlauakea (*Marsilea villosa*). We confirm that 'ihi'ihī has been found around Kamāka'ipō Gulch. This area is proposed to be re-districted into Conservation District and designated a cultural protection zone, where no development will occur. The area will also be owned and managed by the Land Trust, who will develop and implement a management plan for area.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding 'ihi'ihīlauakea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

Page 57 Spiritual Resources: paragraph #2

1. *By developing Lā'au Pt. how will or how can the majority of the people of Molokai maintain its "spiritual mana and power"?*

Makaila Purdy
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 3

Response: Hawaiians named specific sites according to their natural resources and features. Looking at historic and contemporary maps of Moloka'i, Ka Lāe 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 Kahalepōhaku on the southeast and Kamāka'ipō on the northwest. The development is proposed from Kahalepōhaku east to Pu'u Hakina and from Kamāka'ipō north to Kaupoa.

First, the 51 acres of Lā'au Point proper which is owned by the federal government will not be disturbed. Second, the Shoreline Access Management Plan, which is included in 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 two 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 Plan were provided on pages 116-117 of the Cultural Impact Assessment (Appendix F in the Draft EIS).

We believe the Section 4.2 of the Draft EIS provides a succinct summary of the Cultural Impact Assessment conducted for the EIS; however, in response to your comment, we direct you to the full report (Appendix F of the Draft EIS), which contains a detailed discussion regarding spiritual resources.

Page 57 Water

1. *How is MPL going to address this world-wide issue?*
2. *Will there really be enough water to fit the 100 year plan?*
3. *What will and how can MPL help contribute to some of the solution of "global warming"?*

Response: It is beyond the scope of the EIS to address "world-wide issues" not relevant to the project.

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

Attachment: Revised Section 3.6 (Flora)

Cc: Anthony Chung, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 23, 2007
Page 2

Malia K H Akutagawa, Esq.
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Kaunakakai, HI 96748

February 23, 2007

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Anthony Ching
State Land Use Commission
P.O. Box 2359
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Genevieve Salmonson
OEOC
235 S. Beretania St. #702
Honolulu, HI 96813

Dear Messrs. Nicholas, Edwards, Witten, Ching and Ms. Salmonson:

Subject: COMMENTS ON DEIS FOR LA'AU POINT

I submit the following comments in my personal capacity and as a resident born and raised on Molokai. This letter specifically addresses deficient areas within the DEIS which need to be addressed more fully in an FEIS.

Endangered Species

'Ihi 'ihiauakea (Marsilea villosa)

De minimis protections of the endangered species identified within the project area is unacceptable and non-compliant with the federal Endangered Species Act and the State of Hawaii's companion law. The endangered plant species 'ihiauakea (*Marsilea villosa*) was identified. The DEIS states a future management plan will be developed. However, it is not available for review and an opportunity for agencies to make informed decisions is precluded.

Current distribution of this plant is extremely limited with only 3 populations on Oahu and 2 on Molokai. Many naturally occurring populations fell victim to anthropogenic disturbance; particularly drainage alterations, habitat degradation, competition with introduced plants, destruction by off-road vehicles, trampling from increased foot and animal traffic, and development. Subdivision development, infrastructure improvements, new roads, and regular foot and vehicular ingress and egress into this

currently isolated area will undoubtedly invite alien plant invasion and displacement of this native, endangered species.

M. villosa also has a complicated life and reproductive cycle that requires different moisture regimes. Periodic flooding is required for spore release and fertilization, followed by decreased water levels for young plants to flourish, and then dry soil for maturing plants to remain viable. These plants tend to grow in low elevations with irregular flooding. They converge along depressions in silty clay and sand where seasonal rains allow for periodic pooling. What provisions will be made to ensure that this species is not compromised by a synthetic environment and new landscaping? Very slight perturbances could prove fatal to this sensitive species and constitute harm and a "taking" within the meaning of the Endangered Species Act and the Hawaii Administrative Rules -- Title 13-124. Additionally sexual reproduction in *M. villosa* require scarification of sporocarp through bacterial action. Will synthetic fertilizers and/or pesticides be utilized in the landscaping that may upset the microbial balance within the soil/sand substrate containing *M. villosa* spores?

Hawaiian Monk Seal

The Hawaiian monk seal was also identified as an endangered species seen within the project area. Current population estimates number between 1,300 to 1,400 individuals. Reproductive populations declined alarmingly by 60% over four decades (between 1958 and 1996) and continues to fall. Hawaiian monk seals are very sensitive to disturbance by humans and loss of habitat. The blanket statement offered in the EIS, "These species could readily relocate and re-populate the adjacent open spaces," is quite dismissive, inappropriate, and lacks proper regard for this species and the laws that protect it. Lawaia (fishermen) and traditional practitioners have seen mothers and their pups resting along the shoreline at La'au Pt., HAR Section 13-124-3 specially prohibits the taking of endangered species; the removal, damage, or disturbance of nesting areas of any indigenous, endangered, or threatened species.

"Take" within the meaning of the Endangered Species Act and our state counterpart HAR 13-124-2 is defined *inter alia* as harassing, harming, pursuing, more deliberate acts, or the attempt thereof towards threatened or endangered species. Jurisprudence over the term "harm" within the ESA takings definition includes significant habitat modification or degradation where actual killing or injuring of wildlife occurs through impairment in species behavioral patterns, including breeding, feeding, or sheltering. Studies conducted in the Northwest Hawaiian Islands have demonstrated that recreational activities along the shoreline disturbed a nesting area for Hawaiian monk seals such that mothers and pups relocated to an unsafe sand bar that exposed pups to shark predation during high tide. This caused a significant decline in population.

The subject EIS in Section 1.1.3 on Unresolved Issues provides a convoluted explanation of the true minimum shoreline setback requirement. While the setback could be in some places 1,000 feet from the high water mark, these lots are likely not the front maki lots, but rear lots or subject to unique contours in the land. Fifty feet beyond the current Conservation District boundary of 150-200 feet inland from the shoreline constitutes a minimum setback of 250 feet. That it is measured according to the high water mark rather than the vegetation line makes it less protective of monk seals. There is also no provision for safe distances away from monk seals resting or nesting on the beach, nor any preclusion of certain recreational activities that may constitute harm or a take within the meaning of the Endangered Species Act. Absent a clear plan that is reviewable in the body of the EIS and sanctioned by the U.S. Fish and Wildlife Service and the State Board of Land & Natural Resources, decision-makers are again precluded from making an informed assessments of impacts.

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 23, 2007
Page 3

Endangered Hawaiian Green Sea Turtle & Hawksbill Turtle

The survey is inadequate in determining whether La'au provides a nesting area for endangered sea turtles. An articulated assessment in this area would be prudent. If it is determined as a turtle nesting site, then articulated provisions and protections must be made for them prior to an agency determination on the efficacy and acceptability of the DEIS. Assessment of impacts from artificial lighting associated with the housing project would need to be addressed and appropriate mitigation measures imposed.

Water Quality Monitoring

The DEIS states that period water quality monitoring will take place. Who will conduct the monitoring? What will be the monitoring frequency? What procedures will be undertaken should levels exceed permissible limits? What corrective action will be taken? What provisions are made for non-point source discharge?

Marine Environment, Drainage

The DEIS further states that peak post-development runoff from the developed lots and roadways is projected at 1.1 cubic feet per second (CFS) more than current conditions. Yet in another section it states that "it is unlikely that sediment discharge from runoff to the ocean will be significantly less with the La'au Point project compared with existing conditions." How is this statement substantiated? Increase of impermeable surfaces from the development of 200 homes in a relatively compact area and associated infrastructural improvements (roads, walkways) will create greater runoff potential with or without native landscaping and clever drainage measures.

Burials

The DEIS identifies briefly the jurisdiction of the State Historic Preservation Division Burial Sites Program, Molokai Burial Council, and involvement of cultural and lineal descendants in determining the disposition of burials inadvertently identified. The DEIS fails, however to make the clear distinction that these same entities must be involved from the start, before development occurs. These entities need to be involved at the earliest stage, before a subdivision plat is approved. The Burial Treatment plan must include their input in terms of buffer zones and other protections of previously identified burials in addition to recommendations as to the disposition of inadvertent discoveries.

The survey appended to the DEIS names burial site numbers. Approximately how many individual burials are located at each burial site? These numbers have greater bearing in terms of impact assessments. If burials are numerous and prolific throughout the property, recommendations for their protection may be more stringent and pronounced. Official efforts through the State process also need to be undertaken to identify cultural and lineal descendants so that their wishes may be honored.

Irreversible and Irrecoverable Commitments of Resources, Socio-Economic Impacts

The DEIS identifies the applicant's own irreversible and irretrievable commitment of "fiscal resources", namely "money, construction materials, non-renewable resources, labor, and energy required for the project's completion." An analysis of the applicant's wallet-size is a self-edifying one and was certainly not contemplated within HRS Chapter 343 and its companion administrative rules HAR 11-200.

The DEIS goes on to describe the creation of a community land trust, donation of legacy lands and easements, and protection of subsistence fishing, gathering, and hunting grounds. Again the applicant misses the point. The law clearly states that an EIS may not be designed as a "self-serving recitation of

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 23, 2007
Page 4

project benefits." HAR § 11-200-14. Indeed throughout the DEIS the applicant errs on numerous accounts.

The real analysis rests in what natural and cultural resources will be diminished forever in the aftermath of this development. What also are the social and economic implications for the entire island? While the DEIS identifies economic benefits adhering to renovations and upgrade of Kaluakoi Hotel and Golf Course, revitalization of tourism industry and increase in attendant jobs, and increased revenue stream from new residents at La'au, it neglects to fully describe the true impact to Molokai's existing population and existing commercial hub at Kaunakakai. History has already revealed what benefits inhaled to the original Molokai Ranch owners who dredged a new harbor decades ago along its formerly sparsely populated lands at Kaunakakai. This move effectuated the displacement of Kamalo as the commercial hub of the island, its benefits as a natural harbor for shipping between islands, its schools, homes, and churches that supported a thriving native and immigrant population. Kamalo was soon reduced to a ghost town and remains so to this day. The lessons of history have value today as we assess the true impact of a development in the remote, isolated, and currently unpopulated area of our island, pristine in nature, and sacred as a wahi pana.

Cumulative Impacts, Project Segmentation, and a Commitment to Larger Actions

The applicant identifies its project as part of a larger picture envisioned within a master land use plan brokered by its partner, the Molokai Enterprise Community. It identifies Kaluakoi Resort as a critical piece and *inter alia* mentions briefly the establishment of two parks and associated improvements, one at Hale O Lono. This taken cumulatively with past developments by the applicant, namely, a lodge, theater, and new homes at Maunaloa, exclusive eco-tours, and luxury "campsites," begins to paint a broader picture of true impacts.

The law is clear. HAR Section 11-200-7 states the following:

A group of actions proposed by an agency or an applicant shall be treated as a single action when:

The component actions are phases or increments of a larger total undertaking;

An individual project is a necessary precedent for a larger project;

The actions in question are essentially identical and a single statement will adequately address

the impacts of each individual action and those of the group of actions as a whole.

The DEIS fails to address the full impacts of the entire project in totality. What are the impacts on the environment, water use, population, property values, etc. once Kaluakoi is fully restored and renovated, all existing ranch lands sold to private owners are fully developed, and Hale O Lono improvements are made? What kinds of improvements will be made to Hale O Lono which is not necessarily a short distance from the La'au Pt. development? Will Hale O Lono also become the dangling carrot for wealthy new residents at La'au to dock their luxury boats? How will the character of Hale O Lono be altered as a spot primarily enjoyed by local people having small picnics to something perhaps more exclusive? How does the La'au development fit within its prior phased developments? As significant infrastructure is established where none currently exists, what other types of developments are in contemplation? What will the Community Development Corporation contemplate in making its new trust lands financially viable?

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salimonson
February 23, 2007
Page 5

Alternatives and Water

The DEIS misrepresents what actually occurred at the numerous community meetings co-sponsored by the Molokai Enterprise Community. There was virtually no buy-in for the La'au development. District after district made impassioned speeches about the water resources that would be impacted as well as the sacred nature of that land. What the applicant requested time and again was that the community table the La'au issue until the entire Master Land Use Plan was crafted. The applicant attempted to placate the community by stating it would not ask for more water than what has been currently allocated. Indeed it cited desalination as the method of responding to water needs – a method that is now summarily dismissed in this EIS. At the eleventh hour the applicant presented the La'au development portion and dangled it as a threat to the implementation of other elements of the plan that by then had become a labor of love for the community. For the record, the community is not against the Master Land Use Plan *per se*, rather what is at controversy here is the La'au portion of that. Even at that eleventh hour, there were dedicated individuals who committed themselves to seeking alternatives that would provide a win-win situation: viable economic options that would assist the applicant in meeting its financial interests while reducing the ecological and cultural footprint from what was envisioned by the applicant with La'au. The recommendations we sought to present were pre-empted by the EC Board which decided to vote on the Master Land Use Plan prior to our presentation. Those alternatives are not adequately addressed in the DEIS and again have been dismissed by the applicant. This oversight needs to be rectified in the Final EIS.

The State Water Code and the body of jurisprudence on this matter is clear. Homesteaders have priority rights for existing and foreseeable uses. The public trust doctrine also takes precedence in water applications. Constitutionally protected native Hawaiian rights also may not be infringed upon in the issuance of water permits. The EIS fails to adequately address the impacts to these legal rights. A promise to address them at a later date in a future water permit application does not suffice in meeting HRS 343 requirements that decision-makers be fully informed prior to making a determination. Furthermore, such duties are non-delegable as evidenced in the Ka Pa'akai 'O Ka 'Aina case.

The DEIS notes a 15 year forecast from the early planning and permitting stages to full build-out. An assessment of water needs, both existing and projected, particularly with respect to constitutionally and statutorily protected water reservation rights of Hawaiian homesteaders, must be fleshed out to the year 2023 and beyond as families at La'au begin to grow and water demands increase. The applicant's statement that it "has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water", is an empty one when in fact the applicant is attempting to create a reliance interest in the same water. The water is an out of watershed transfer that will be applied for homes in an arid region of the island where there is absolutely no potential for aquifer recharge. Once 200 new homes are erected, occupants will need water. How does that *de facto* situation truly measure up to water uses already planned for but not yet undertaken? How does that measure up to future and foreseeable uses protected by law for homesteaders? The La'au development was not planned for, yet the applicant self-proclaims its priority and essentially shoves others out of the way in its pursuit to the front of the line.

According to a Water Task Force report in our Molokai Island Times based on April 1996 findings in the Water Commission Report, Molokai has a total cumulative sustainable water supply of 33.5 mgd. All currently approved development would require 54.45 mgd (11.55 mgd for drinking, and 42.9 mgd for agriculture and recreation). Consequently Molokai will be short 20.95 mgd water at completion of all approved developments.


Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salimonson
February 23, 2007
Page 6

Now there exists evidence that the total cumulative sustainable water determination is not conservative enough. Water wells in Kawela, 'Ualapu'e, and the Molokai Irrigation System in Kualapu'u are now hitting chlorides, thereby penetrating the freshwater/saltwater lens interface. When the USGS conducted a meeting last year on Molokai, the expert was unable to dispute that an extraction of brackish water as the applicant contemplates herein would not also compromise the integrity of the fresh-water/saltwater lens that is critical to maintaining sustainable yield of the aquifer. If the sustainable yield values require recalculation and prior planned and approved uses would exceed those values, how then can the La'au PT development be justified? At risk are the people already living here and the natural and cultural resources depended upon for subsistence. What is at issue is the carrying capacity of our island, already designated by the State as a sole source aquifer and critical water management area.

Stripped to the bare essentials, if there is no water, there is no life. No water equals no justifiable reason to make provision for additional unplanned uses as contemplated by the applicant here, especially in terms of making provisions for newcomers who have no stake in the future of Molokai, no inherent love for this 'aina (land) as those who have been born to this isle. No amount of hoopla, fanfare, misrepresentation and over-exaggeration of community buy-in can truly dispense the simple fact that water is the limiting factor here, without which in good conscience and for love of future generations this proposed development cannot and should not proceed.

Maheia for this opportunity to comment.

Sincerely,



Malia K. H. Akutagawa



Molokai
Properties
Limited

November 1, 2007

Malia K.H. Akutagawa
P.O. Box 1715
Kaunakakai, Hawaii 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Akutagawa:

Thank you for your letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

We understand that you filed a "notice to intervene" with the State Land Use Commission (LUC) in May 2006 regarding the Lā'au Point State Land Use District Boundary Amendment petition. If you plan to formally file a "petition to intervene," you will need to comply with LUC Rules (HAR §15-15-52 Intervention in proceeding for district boundary amendments). The LUC rules can be obtained on their website at <http://luc.state.hi.us/docs/luc_rules.pdf>.

Endangered Species

1. *'Ihi'ihilauekea (Marsilea villosa)*. *De minimis* protections of the endangered species identified within the project area is unacceptable and non-compliant with the federal Endangered Species Act and the State of Hawaii's companion law. The endangered plant species *'Ihi'ihilauekea (Marsilea villosa)* was identified. The DEIS states a future management plan will be developed. However, it is not available for review and an opportunity for agencies to make informed decisions is precluded. Current distribution of this plant is extremely limited with only 3 populations on Oahu and 2 on Molokai. Many naturally occurring populations fall victim to anthropogenic disturbance; particularly drainage alterations, habitat degradation, competition with introduced plants, destruction by off-road vehicles, trampling from increased foot and animal traffic, and development. Subdivision development, infrastructure improvements, new roads, and regular foot and vehicular ingress and egress into this currently isolated area will undoubtedly invite alien plant invasion and displacement of this native, endangered species. *M. villosa* also has a complicated life and reproductive cycle that requires different moisture regimes. Periodic flooding is required for spore release and fertilization, followed by decreased water levels for young plants to flourish, and then dry soil for maturing plants to remain viable. These plants tend to grow in low elevations with irregular flooding. They converge along depressions in silty clay and sand where seasonal rains allow for periodic pooling. What provisions will be made to ensure that this species is not compromised by a synthetic environment and new landscaping? Very slight perturbances could prove fatal to this sensitive species and constitute harm and a "taking" within the meaning of the Endangered Species Act and the Hawaii Administrative Rules—Title 13-124. Additionally sexual reproduction in *M. villosa* require scarification of sporecarp through bacterial action. Will synthetic fertilizers and/or pesticides be utilized in the landscaping that may upset the microbial balance within the soil/sand substrate containing *M. villosa* spores?

Response: We confirm that *'Ihi'ihilauekea* has been found around Kamāka'ipō Gulch. This area is proposed to be re-districated into Conservation District and designated a cultural protection zone, where no development will occur. The area will also be owned and managed by the Land Trust.

who will develop and implement a resource management plan for area; to clarify who will develop the management plan in the Final EIS Section 3.6 (Flora) will be revised as follows:

The majority of the native plant communities are located in the expanded Conservation District area in the sandy beach and rocky shoreline areas, where no development will occur within the setback of the coastal conservation zone. Of the native plant species, only the *'Ihi'ihilauekea (Marsilea villosa)* population is located within the proposed development project area, at Kamāka'ipō Gulch. Kamāka'ipō Gulch will be part of the expanded Conservation District area, designated a Cultural Protection Zone, and managed by the Land Trust. No development will occur in expanded Conservation District area, including Kamāka'ipō Gulch. The *'Ihi'ihilauekea* population is not within the proposed residential houselot area.

A management plan is to be a Shoreline Access Management Plan (SAMP) (Appendix B) has been developed adopted by the Land Trust as the easement holder of the expanded Conservation District area and county-zoned open space areas, Kamāka'ipō Gulch, which will be decided to the Land Trust, is also covered by the SAMP. This with The provisions of the SAMP include managing this the significant *'Ihi'ihilauekea* population, including possible opportunities to use for private landowner "safe harbor" conservation programs. The *'Ihi'ihilauekea* might also benefit from habitat created by any settling ponds planned for the site. The key to protecting the *'Ihi'ihilauekea* is the creation and implementation of provisions to protect the fern from grazing, trampling, erosion, fire, or other habitat changes.

To protect environmentally sensitive features, including native, rare, threatened, and endangered plants, the Terrestrial Biological Resources Preservation of Resources section of the SAMP provides for:

1. Promulgation of rules and regulations to protect native, rare, threatened or endangered species.
2. Development of a natural resource management plan to identify management of terrestrial resources.
3. Provision of informational/educational signs where rare, threatened, or endangered plants or animals are found and to manage or control access.
4. Provision of buffer zones to ensure protection of sensitive species or habitats
5. Development of a monitoring program incorporating both scientific and anecdotal evidence to monitor the environment and ensure the viability of native species and habitats.
6. Enforcement of rules and prohibitions by an on-site Resource Manager.
7. Education of all individuals (staff, contract or volunteers) implementing the natural resource management plan.

The native plant species historically known from the project area are capable of existing for decades in the soil seed bank. These species will not be destroyed by the proposed activities, but the soil disturbance may simulate them to grow in areas where they are not currently seen.

Section 2.3.5 of the Draft EIS includes a conceptual landscape plant palette for Lā'au Point. The Design Guidelines, to be created at a future date, will contain the list of approved native plant species from coastal dry plant communities. No alien plant species will be included in the permitted plant list. Any species not listed in the approved list will be prohibited.

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)."

3. *The subject EIS in Section 1.1.3 on Unresolved Issues provides a convoluted explanation of the true minimum shoreline setback requirement. While the setback could be in some places 1,000 feet from the high water mark, these lots are likely not the front makai lots, but rear lots or subject to unique contours in the land.*

Response: The 200 to 1,000-foot shoreline setbacks refer to the makai front row lots. The back row lots are over 1,000 feet back from the shoreline.

4. *Fifty feet beyond the current Conservation District boundary of 150-200 feet inland from the shoreline constitutes a minimum setback of 250 feet. That it is measured according to the high water mark rather than the vegetation line makes it less protective of monk seals. There is also no provision for safe distances away from monk seals resting or nesting on the beach, nor any preclusion of certain recreational activities that may constitute harm or a take within the meaning of the Endangered Species Act. Absent a clear plan that is reviewable in the body of the EIS and sanctioned by the U.S. Fish and Wildlife Service and the State Board of Land & Natural Resources, decision-makers are again precluded from making an informed assessments of impacts.*

Response: According to the Title MC-12 Department of Planning, Subtitle 03 Molokai Planning Commission, Chapter 4 Rules Relating to Shoreline Setbacks for the Molokai Planning Commission, §12-4-6(3), the established shoreline setback for the Lā'au parcel is 150 feet from the shoreline. This project provides a minimum shoreline setback of 250 feet. Given that the project's setback provided is already 100 feet over the setback required by law, the argument for measuring the setback from the vegetation line versus the high water mark is irrelevant.

Regarding your comment about the use of synthetic fertilizers and/or pesticides, as stated in Section 2.3.6 of the Draft EIS, only organic fertilizers will be permitted. However, there have been some concerns regarding organic fertilizers as well. Therefore, to reflect your comment your comment in the Final EIS, as well as other comments received about fertilizers, Section 2.3.6 (Covenants) 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.
- 2. **Hawaiian Monk Seal.** *The Hawaiian monk seal was also identified as an endangered species seen within the project area. Current population estimates number between 1,300 to 1,400 individuals. Reproductive populations declined alarmingly by 60% over four decades (between 1958 and 1996) and continues to fall. Hawaiian monk seals are very sensitive to disturbance by humans and loss of habitat. The blanket statement offered in the EIS, "These species could readily relocate and repopulate the adjacent open spaces," is quite dismissive, inappropriate, and lacks proper regard for this species and the laws that protect it. Lawai'a (fishermen) and traditional practitioners have seen mothers and their pups resting along the shoreline at Lā'au Pt. HAR Section 13-124-3 specially prohibits the taking of endangered species; the removal, damage, or disturbance of nesting areas of any indigenous, endangered, or threatened species. ¶"Take" within the meaning of the Endangered Species Act and our state counterpart HAR 13-124-2 is defined inter alia as harassing, harming, pursuing, more deliberate acts, or the attempt thereof towards threatened or endangered species. Jurisprudence over the term "harm" within the ESA takings definition includes significant habitat modification or degradation where actual killing or injuring of wildlife occurs through impairment in species behavioral patterns, including breeding, feeding, or sheltering. Studies conducted in the Northwest Hawaiian Islands have demonstrated that recreational activities along the shoreline disturbed a nesting area for Hawaiian monk seals such that mothers and pups relocated to an unsafe sand bar that exposed pups to shark predation during high tide. This caused a significant decline in population.*

Response: The actual statement you reference from the EIS is: "Land birds and mammals may be displaced by the residential development. It is noted, however, that the vast majority of the parcel will be left in its natural condition. These species could readily relocate and repopulate adjacent open spaces." To clarify, this statement is not referring to the Hawaiian monk seal, a marine mammal, which does not haul out within the proposed residential development area, and therefore, will not be directly displaced by the proposed development.

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

Regarding your comment about a clear plan for protection of monk seals, see our response to #2 above.

5. **Endangered Hawaiian Green Sea Turtle & Hawksbill Turtle.** *The survey is inadequate in determining whether Lā'au provides a nesting area for endangered sea turtles. An additional assessment in this area would be prudent. If it is determined as a turtle nesting site, then articulated provisions and protections must be made for them prior to an agency determination on the efficacy and acceptability of the DEIS. Assessment of impacts from artificial lighting associated with the housing project would need to be addressed and appropriate mitigation measures imposed.*

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)."

Water Quality Monitoring

6. *The DEIS states that period water quality monitoring will take place. Who will conduct the monitoring? What will be the monitoring frequency? What procedures will be undertaken should levels exceed permissible limits? What corrective action will be taken? What provisions are made for non-point source discharge?*

Response: As discussed in Section 4.9.1 (Drainage) of the Draft EIS, Lā'au Point will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream Conservation District land's marine environment and nearshore and offshore water quality.

Subsequent monitoring activities will be conducted by the Land Trust in its role as the easement holder over the expanded Conservation Area. In the Final EIS, Section 3.8 (Marine Environment) has been revised to include the following:

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 Moloka'i Land Trust. These organizations will have management responsibility and enforcement authority over the Pu'u Hakina and Kamaka'ino (Lā'au 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.

In the Final EIS, Section 4.9.3 (Drainage) has been revised to include the following:

Where necessary, grass-lined diversion ditches will be installed along mauka boundaries of the project site to keep offsite runoff from flowing across the lots. All lots will also be required to retain runoff of their lot in surface or subsurface retention basins onsite. This

is to ensure that additional runoff generated by the project is kept within the project limits in accordance with Maui County Storm Drainage Standards. The contractor will also be required to comply with State and County approved Best Management Practices for the duration of the construction period.

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.

Marine Environment, Drainage

7. *The DEIS further states that peak post-development runoff from the developed lots and roadways is projected at 11 cubic feet per second (CFS) more than current conditions. Yet in another section it states that "it is unlikely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point project compared with existing conditions." How is this statement substantiated? Increase of impermeable surfaces from the development of 200 homes in a relatively compact area and associated infrastructural improvements (roads, walkways) will create greater runoff potential with or without native landscaping and clever drainage measures.*

Response: Subsurface systems will be installed along the roadway sagpoints and in each lot respectively. These facilities will be sized to retain the additional runoff generated by the project on site. Moreover, with permanent irrigation systems being installed, establishment of more ground cover is likely, resulting in slower runoff and less migration of water borne silt into the ocean.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding the runoff, Section 4.9.1 (Drainage) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.1 (Drainage)."

Burials

8. *The DEIS identifies briefly the jurisdiction of the State Historic Preservation Division Burial Sites Program, Moloka'i Burial Council, and involvement of cultural and lineal descendants in determining the disposition of burials inadvertently identified. The DEIS fails, however to make the clear distinction that these same entities must be involved from the start, before development occurs. These entities need to be involved at the earliest stage, before a subdivision plat is approved. The Burial Treatment plan must include their input in terms of buffer zones and other protections of previously identified burials in addition to recommendations as to the disposition of inadvertent discoveries. The survey appended to the DEIS names burial site numbers. Approximately how many individual burials are located at each burial site? These numbers have greater bearing in terms of impact assessments, if burials are numerous and prolific throughout the property, recommendations for their protection may be more stringent and pronounced. Official efforts through the State process also need to be undertaken to identify cultural and lineal descendants so that their wishes may be honored.*

Response: Up to this time, MPL has not gone to the community, SHPD, and Moloka'i Island Burial Council to define all the particulars of the Burial Treatment Plan, since the plan was well

burials in the floor, although this interpretation is more tentative. The overall number of burials at the site is likely to be greater than three, but the upper limit is difficult to know.

- Site 1143 (B5-102): Single mound with a single possible burial
- Site 1144 (B5-103): Two mounds with 1 or more possible burials
- Site 1147 (B5-106): One mound with an upright could be a shrine or a burial, possibly containing 0-3 interments.
- Site 1150 (B5-109): Single mound with a single possible burial
- Site 1152 (B5-111): Two mounds in the 4-5 m2 size range, each capable of containing 1 - 2 individuals
- Site 1154 (B5-113): Two mounds in the 1.8 - 2.5 m2 size range, each containing a possible burial.
- Site 1155 (B5-114): Two mounds in the 3.8 - 6.4 m2 size range, each capable of containing 1 or more burials, the appearance suggest no more than two individuals.
- Site 1160 (B5-119): Single rectangular pavement possibly containing one historic era burial.
- Site 1167 (B5-126): Two platforms, measuring 4.8 and 9 m2, each of which could contain multiple interments. Their condition and proximity to ranching features suggests that they may not be prehistoric, and may not be burials. If so, however, the number of individuals could be 2-10.
- Site 1170 (B5-129): Single mound with one or two possible burials.
- Site 1171 (B5-130): Stone-edged, soil mound 5 m2 in area, containing one or two possible burials.
- Site 1174 (B5-133): Mounds (4) and platforms (3) ranging from 2.25 to 14 m2, all but the smallest of which could contain multiple interments. The estimated number of individuals would be 7 - 30.
- Site 1176 (B5-135): Single mound with a single possible burial
- Site 1761: Located in Papohaku Ranchlands subdivision, although not officially inventoried, appears to contain two burial mounds, each with a single interment.

Irreversible and Irrecoverable Commitments of Resources, Socio-Economic Impacts

9. The DEIS identifies the applicant's own irreversible and irretrievable commitment of "fiscal resources", namely "money, construction materials, non-renewable resources, labor, and energy required for the project's completion." An analysis of the applicant's wallet-size is a self-edifying one and was certainly not contemplated within HRS Chapter 343 and its companion administrative rules HAR 11-200. ¶The DEIS goes on to describe the creation of a community land trust, donation of legacy lands and easements, and protection of subsistence fishing, gathering, and hunting grounds. Again the applicant misses the point. The law clearly states that an EIS may not be designed as a "self-serving recitation of project benefits." HAR § 11-200-14. Indeed throughout the DEIS the applicant errs on numerous accounts. ¶The real analysis rests in what natural and cultural resources will be diminished forever in the aftermath of this development. What also are the social and economic implications for the entire island? While the DEIS identifies economic benefits adhering to renovations and upgrade of Kaluakoi Hotel and Golf Course, revitalization of tourism industry and increase in attendant jobs, and increased revenue stream from new residents at La'au, it neglects to fully describe the true impact to Molokai's existing population and existing commercial hub at Kaunakakai. History has already revealed what benefits inhered to the original Molokai Ranch owners who dredged a new harbor decades ago along its formerly sparsely populated lands at

into the future, and consultation years before the implementation of it would not have been appropriate. Such consultation will occur prior to development.

None of the sites where there are previously identified burials or possible burials has been studied to the extent that we can know the number of individuals present. This results largely from the decision to avoid invasive techniques (dismantling structures and/or excavation), and to preserve all known and possible burials in place. As discussed in the Burial Treatment Plan (provided as an appendix in the EIS), based on the number, size, and formal attributes of features, we can provide the following rough estimates for the number of individuals:

- Site 50 (B6-64): One feature is thought to have a single burial.
- Site 54 (B6-69, -72, and -73): Four mounds in the B6-69 section of this site range from 5 m2 to 26 m2, and all but the smallest appear capable of containing multiple interments. The single mound in B6-72 is small, and may contain a single burial. In Site B6-73, are a small mound (4.6 m2) that may contain one burial, and a much larger mound (41.4 m2) thought to contain multiple burials. A single bone fragment found during excavation in B6-73, Feature 1, reported in the 1993 inventory to be a human thumb, was subsequently identified as pig during Bishop Museum's NAGPRA Inventory in the late 1990s, which along with the lack of other human bone in the excavation indicated a lack of burials there. The total number of interments in Site 54 may be between 5 and 25.
- Site 56 (B6-77): Six mounds ranging from 1m2 to 5.3m2 in area include one likely burial and five more possible burials. Most appear capable of containing no more than a single interment, and the total number at the site is likely to be between 1 and 7.
- Site 520: Located in the Papohaku Ranchlands subdivision, this site has not been inventoried, and contains an unknown number of features, although a reconnaissance of the site indicates one or more possible burial features.
- Site 648 (B6-90): Single mound with a single possible burial
- Site 649 (B6-91): Single mound with a single possible burial
- Site 669 (B6-119): Single mound with a single likely burial
- Site 671 (B6-121): Two mounds measuring 3 and 5m2, probably containing 2 - 3 individuals.
- Site 674 (B6-124): Single mound with a single possible burial
- Site 681 (B6-131): Single mound with 1 or two possible interments
- Site 682 (B6-132): Single mound with a single possible burial
- Site 739 (B6-153): Oval pavement 10.8 m in area, possibly covering one or more burials
- Site 741 (B6-155): Single mound 1.8m in diameter, containing a single possible burial
- Site 764 (B6-178): A low platform or pavement measuring about 6.5 m2 in area that may cover one or more burials.
- Site 1102 (B5-62): Rectangular stone-lined pit in a platform, not definitely a burial, but capable of containing multiple individuals, and the estimate number is 0 - 3.
- Site 1107 (B5-67): Three platforms/mounds and three enclosures appear capable of containing burials, and their location near a heiau (Site 1106). The platforms and mounds are each in the size range (from 7 m2 to 12 m2) that could contain a single or multiple interments. The enclosures, from 5 to 15 m2 in area, could each also have one or more

Kauakakai. This move effectuated the displacement of Kamalo as the commercial hub of the island, its benefits as a natural harbor for shipping between islands, its schools, homes, and churches that supported a thriving native and immigrant population. Kamalo was soon reduced to a ghost town and remains so to this day. The lessons of history have value today as we assess the true impact of a development in the remote, isolated, and currently unpopulated area of our island, pristine in nature, and sacred as a wahi pana.

Response: We discussed social and economic impacts of the proposed Lā'au Point project in Section 4.8 of the Draft EIS.

Your request that the EIS further discuss the impacts of re-opening of the Kaluako'i Hotel is unnecessary since the re-opening is roughly to the same extent that the hotel was operating a few years ago; therefore, the impacts of the hotel at that time are already known.

The Lā'au Point project has been analyzed. The environmental impacts and benefits of this project have been addressed based upon the construction of this project in West Moloka'i. Therefore, the renovation of the Kaluako'i Hotel is not included in our Lā'au Point applications for a State Land Use District Boundary Amendment, County change in zoning, or Community Plan Amendment. The renovation of Kaluako'i Hotel will undergo its own separate permitting process.

Cumulative Impacts, Project Segmentation, and a Commitment to Larger Actions

10. The applicant identifies its project as part of a larger picture envisioned within a master land use plan brokered by its partner, the Molokai Enterprise Community. It identifies Kaluako'i Resort as a critical piece and inter alia mentions briefly the establishment of two parks and associated improvements, one at Hale o Lono. This taken cumulatively with past developments by the applicant; namely, a lodge, theater, and new homes at Maunaloa, exclusive eco-tours, and luxury "campsites," begins to paint a broader picture of true impacts. ¶The law is clear. HAR Section 11-200-7 states the following: A group of actions proposed by an agency or an applicant shall be treated as a single action when: The component actions are phases or increments of a larger total undertaking; An individual project is a necessary precedent for a larger project; An individual project represents a commitment to a larger project; or The actions in question are essentially identical and a single statement will adequately address the impacts of each individual action and those of the group of actions as a whole. ¶The DEIS fails to address the full impacts of the entire project in totality. What are the impacts on the environment, water use, population, property values, etc. once Kaluako'i is fully restored and renovated, all existing ranch lands sold to private owners are fully developed, and Hale O Lono improvements are made? What kinds of improvements will be made to Hale O Lono which is not necessarily a short distance from the Lā'au Pt. development? Will Hale O Lono also become the dangling carrot for wealthy new residents at Lā'au to dock their luxury boats? How will the character of Hale O Lono be altered as a spot primarily enjoyed by local people having small picnics to something perhaps more exclusive? How does the Lā'au development fit within its prior phased developments? As significant infrastructure is established where none currently exists, what other types of developments are in contemplation? What will the Community Development Corporation contemplate in making its new trust lands financially viable?

Response: We have made a good faith effort to prepare an EIS in compliance with Chapter 343 and the underlying regulations found in HAR §11-200-1 et. seq. We concur that the Draft EIS must address cumulative impacts, the secondary and non-physical effects of a proposal and the

socio-economic consequences of a proposed action. We have done so to the greatest extent possible in this EIS. Section 7.2 of the EIS addresses cumulative and secondary impacts.

See our response to #9 above regarding potential impacts from Kaluako'i Hotel.

Section 4.10.5 of the Draft EIS discussed the proposed South shore park plans near Hale O Lono. We note that this park is west of Hale O Lono Harbor. MPL does not intend to make improvements to the existing harbor.

Alternatives and Water

11. The DEIS misrepresents what actually occurred at the numerous community meetings co-sponsored by the Molokai Enterprise Community. There was virtually no buy-in for the Lā'au development District after district made impassioned speeches about the water resources that would be impacted as well as the sacred nature of that land. What the applicant requested time and again was that the community table the Lā'au issue until the entire Master Land Use Plan was crafted. The applicant attempted to placate the community by stating it would not ask for more water than what has been currently allocated. Indeed it cited desalination as the method of responding to water needs — a method that is now summarily dismissed in this EIS. At the eleventh hour the applicant presented the Lā'au development portion and dangled it as a threat to the implementation of other elements of the plan that by then had become a labor of love for the community. For the record, the community is not against the Master Land Use Plan per se, rather what is at controversy here is the Lā'au portion of that. Even at that eleventh hour, there were dedicated individuals who committed themselves to seeking alternatives that would provide a win-win situation: viable economic options that would assist the applicant in meeting its financial interests while reducing the ecological and cultural footprint from what was envisioned by the applicant with Lā'au. The recommendations we sought to present were pre-empted by the EC Board which decided to vote on the Master Land Use Plan prior to our presentation. Those alternatives are not adequately addressed in the DEIS and again have been dismissed by the applicant. This oversight needs to be rectified in the Final EIS.

Response: MPL was upfront about its needs from the very beginning as per Peter Nicholas' speech to the community meeting with the Conservation Fund on January 28/29, 2003. 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)."

MPL believes community support for the Master Plan and the Water Plan remains strong overall. One must also account for the many supporters of the plan who have chosen to shy away from the process as to avoid confrontation.

Although many of the alternatives proposed by the Alternative to Lā'au Development Committee (ALDC) had merit, they were economically infeasible. MLP would have hoped that the ALDC remained an engaging and collaborative partner in the process, in contrast to simply stating hard line demands without any room for compromise.

The only real alternative suggested by Clark Stevens — "find a conservation buyer for Lā'au Point" — was not thoroughly investigated or marketed by the ALDC aside from initial contact letters to several conservation organizations. We believe MPL has investigated the viability of

this alternative to a deeper level than any other interested party, including the ALDC. It is unfortunate that leaders within the ALDC chose to disband the organization at a time when their efforts could have greatly added to the work done on vetting the conservative buyer plan as a real alternative.

12. *The State Water Code and the body of jurisprudence on this matter is clear. Homesteaders have priority rights for existing and foreseeable uses. The public trust doctrine also takes precedence in water applications. Constitutionally protected native Hawaiian rights also may not be infringed upon in the issuance of water permits. The EIS fails to adequately address the impacts to these legal rights. A promise to address them at a later date in a future water permit application does not suffice in meeting HRS 343 requirements that decision-makers be fully informed prior to making a determination. Furthermore, such duties are non-delegable as evidenced in the KaPa'akai O Ka Aina case.*

Response: 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 mauka-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the 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 an alternative source of water that becomes increasingly viable with technological advances.

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.

To reflect the above information in the Final EIS, 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)."

13. *The DEIS notes a 15-year forecast from the early planning and permitting stages to fall build out. An assessment of water needs, both existing and projected particularly with respect to constitutionally and statutorily protected water reservation rights of Hawaiian homesteaders must be fleshed out to the year 2023 and beyond as families at La'au begin to grow and water demands increase. The applicant's statement that it "has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water," is an empty one when in fact the applicant is attempting to create a reliance interest in the same water. The water is an out of watershed transfer that will be applied for homes in an arid region of the island where there is absolutely no potential for aquifer recharge. Once 200 new homes are erected occupants will need water. How does that de facto situation truly measure up to water uses already planned for but not yet undertaken? How does that measure up to future and foreseeable uses protected by law for homesteaders? The La'au development was not planned for, yet the applicant self-proclaims its priority and essentially shoves others out of the way in its pursuit to the front of the line. According to a Water Task Force report in our Molokai Island Times based on April 1996 findings in the Water Commission Report, Molokai has a total cumulative sustainable water supply of 33.5 mgd. All currently approved development would require 54.45 mgd (11.55 mgd for drinking and 42.9 mgd for agriculture and recreation). Consequently Molokai will be short 20.95 mgd water at completion of all approved developments.*

Response: MPL has often reiterated its recognition of DHHL's priority rights to water, which is a priority established by law. See our response to #12 above.

In considering available water supplies on Moloka'i, the Water Working Group limited its analysis to groundwater. Although the island's ground water sustainable yield is 81 mgd (it was 83 at the time the Water Working Group's report was written), the Group decided to work with a conservative 41.5 mgd of developable yield. Of that amount, 33.5 mgd was considered "sweet" or potable water.

On the demand side, the Water Working Group projected a 2010 potable water demand of 11.55 mgd. That included 2.14 mgd for the Kaluako'i Resort and 2.0 mgd for the Alpha USA property. Since the Water Working Group report, MPL acquired Kaluako'i Resort and the Alpha USA property. MPL's current projected potable water demand for all of its existing and future developments is less than 1.5 mgd, significantly less than the 4.14 mgd projected need for just the Kaluako'i Resort and Alpha property that was utilized in the Water Working Group's analysis.

The big gap between water supply and demand, however, is reflected in the Water Working Group's non-potable water use projections. Total projected long-term non-potable water demand amounted to 42.9 mgd. Included within this amount was 10.6 mgd for Moloka'i Ranch's agricultural activities. Existing agricultural activities on Ranch lands are supplied with irrigation water from the Ranch's mountain system, not from ground water. There are no plans to convert these uses to ground water sources. Additionally, the Water Working Group projected that 5.8 mgd of non-potable water would be required for Kaluako'i Resort and the Alpha USA property. Under MPL's current ownership, and as identified in the Water Plan for the EC/Moloka'i Ranch Master Plan, the total long-term demand for non-potable ground water will be less than 1.5 mgd.

In other words, the gap between water availability and water need as identified in the Water Working Group's Report is, under present conditions, overstated, and the conclusion that "projections of water use exceed supply" is probably inaccurate.

The State Commission on Water Resource Management is reconvening the Moloka'i Water Working Group in 2007 in order to, among other things, update demand projections.

To reflect the above information in the Final EIS, 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)."

14. Now there exists evidence that the total cumulative sustainable water determination is not conservative enough. Water wells in Kawela, Ualapue and the Moloka'i Irrigation System in Kualapuu are now hitting chlorides, thereby penetrating the freshwater/saltwater lens interface.

Response: Rising salinity in certain Moloka'i wells appear to be related to local phenomena associated with particular wells. In particular, the concentrated pumpage of the two DHHL wells (Well Nos. 0801-01 & 02), the County DWS well (Well No. 0801-03) appear to be the cause of chloride rise in these wells.

The DHHL and DWS wells are closely grouped and poorly located relative to each other. All three wells have upgradient/downgradient effects when the DWS well is running while one or

the other of the DHHL wells is also operating. A 20 mg/L chloride rise -- to levels of about 100 mg/L -- in the DHHL wells was an almost immediate response to the start of pumping of the DWS Kualapu'u well in 1991. Chloride levels appear to have been stabilized in all three wells at the higher level.

Well 17 has been in use from 1952 to the present. There has never been a chloride response in the DHHL wells since they began operating in 1961 and 1981, or in DWS well since it began operating in 1991 as a result of pumping the Well 17, even during periods of extended (continuous) pumpage of Well 17 at a 1750 gpm pumping rate (2.5 mgd). The fact that chloride levels for Well 17 have remained stable at about half (or less) the levels in the DHHL and DWS wells is further evidence that pumpage of Well 17 is not producing a chloride response in the DHHL/DWS wells, and vice versa.

The rising chloride levels in Kawela Shaft and 'Ualapu'e Shaft appear to be the result of localized phenomena, and the USGS and Maui County are exploring redistributing and increasing withdrawals to other locations, including locations within the Kawela and 'Ualapu'e aquifers.

MPL is not aware that the MIS is experiencing chloride problems. The source of water for the MIS is three production wells located in Waikolu Valley, which withdraw water from the dike complex in northeastern Moloka'i. Unlike basal aquifers, fresh water in dike complexes do not overly salt water.

To reflect the above information in the Final EIS, 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)."

15. When the USGS conducted a meeting last year on Moloka'i the expert was unable to dispute that an extraction of brackish water as the applicant contemplates herein would not also compromise the integrity of the fresh-water/saltwater lens that is critical to maintaining sustainable yield of the aquifer.

Response: Not all potable aquifers have a potable water lens overlying salt water with a brackish transition zone in between. In the basal aquifers in West Moloka'i brackish water is encountered at the uppermost layer of the lens. This situation is also found at the Kākalahale Well site.

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 maunika-to-makai flow of groundwater. The upgradient intrusives, which create the brackish result in the 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.

Malia Akutagawa
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 15 of 15

To reflect the above information in the Final EIS, 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)."

16. *If the sustainable yield values require recalibration and prior planned and approved uses would exceed those values how then can the La'au Pt. development be justified? At risk are the people already living here and the natural and cultural resources depended upon for subsistence. What is at issue is the carrying capacity of our island already designated by the State as a sole source aquifer and critical water management area.*

Response: MPL is not aware of any proposal, or need, to adjust the sustainable yields for any of the aquifers on Molokai.

17. *Stripped to the bare essentials, if there is no water there is no life. No water equals no justifiable reason to make provision for additional unplanned uses as contemplated by the applicant here, especially in terms of making provisions for newcomers who have no stake in the future of Molokai, no inherent love for this aina (land) as those who have been born to this isle. No amount of hoopla, fanfare, misrepresentation and over-exaggeration of community buy-in can truly dispense the simple fact that water is the limiting factor here, without which in good conscience and for love of future generations this proposed development cannot and should not proceed.*

Response: See our response to #12 above.

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

Attachments:

- Revised Section 3.7 (Fauna)
- Revised Section 4.9.1 (Drainage)
- 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



ATTN: Thomas S. Witten

Due to the date the Environmental Impact Statement draft was released, We would like to ask for a sixty day extension to study the draft and evaluate the study of La'au Point.

We believe 45 days is inadequate to properly evaluate the EIS draft. We need (60) More days to review this document properly.

Thank You
Yolanda A. Wood

January 16, 2007

Malia Wait
c/o Walter Ritte
P O Box 486
Kaunakakai, HI 96748

SUBJECT: La'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Mr. Wait:

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
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control

Aloha Thomas S. Witten,

Enclosed in this letter are a few questions I would like answered. Please include the answers in the next Environmental Impact Statement draft for Lā'au Point on Molokai. Thank you

Malia A. Waits

P.O. Box 973

Kaunakakai, HI

96748

Will the proposed Lā'au Point development have any effect on the shoreline habitat?

Will the proposed Re-opening of Kaluako'i hotel effect the shoreline habitat in any way at Kaluako'i?

Who will be held legally responsible to maintain the streams, gulches and floodways as open spaces at Kamāka'ipō Gulch on the west end of the Lā'au Point proposed development site?

Who will be legally responsible for all comments and questions to be included in the next Molokai Properties Limited Environmental Impact Statement?

What soil types are Federally required for this type of development?

Do the soil type at Lā'au Point drain properly for a development site?

How much run-off is expected during a development process of this size?

How will the Community-based land trust be governed?

Who will decide the rules and regulations for the proposed Community based land trust?

How will the land trust determine who is fishing for subsistence and who is fishing for commercial profit?

What organization will be held legally responsible for the land restrictions proposed by Molokai Properties Limited?

Why did the Molokai land trust register for an approval of its tax exempt 509 (a)(13) status?

Who are the trustees that have gone through extensive training in the duties and obligations for a land trust?

Does Molokai Properties Limited have any other purposes of development other than Lā'au Point?

How will the Molokai Properties Limited expand educational opportunities that will build capacity among the islands youth by developing Lā'au Point?

Will the subsistence farmers or fishermen on the east side of Molokai benefit from the proposed Lā'au development?

Is Well #17 Surface Water?

What will happen to the existing Conservation easements of Land on Molokai?

What chemicals will be used for the filtration process of Brackish Water?

Why does Molokai Ranch State in the EIS that they support agriculture on Molokai?

How will the increase of Water to La'au point benefit the agriculture on Molokai?

How does Molokai Ranch agricultural industry on Molokai benefit the Subsistence farmers?

What percent of the 1.5 million gallons per day that the Molokai Properties Limited currently use?

What will the environmental impact be from the Molokai Properties Limited developing a new system transmission of Water?

How will the new system to transmit water to the La'au development effect current agricultural economics on Molokai?

What is the expected amount of Water needed for the Complete Master Land Use Plan?

What is the expected amount of Water that will be used for the expected 40% of permanent residents?

Will the tapping of well #17 for brackish water deplete the aquifer?

What Corporation made the inaccurate educated guess that the build out rate on Kaluakoi will be less than 1% per year on average?

Due to the MPL's estimated construction period to be two years the initial erosion protection will require more than expected water usage?

How does treated water from a drainage control system benefit the fish population for the Subsistence fishermen?

How does the treated water improve the water quality off shore?

How does the treated water effect the monk seal population?

How will the short term impacts of construction effect the fish for the Subsistence fishers?

Why would Molokai Properties limited open Kaluakoi resort?

What is the expected future growth be at Kaluakoi Properties?

Why would Molokai Properties Limited like to develop Kaluakoi Hotel?

Will the proposed hoses on La'au point have swimming pools?



November 1, 2007

Malia A. Waits
P.O. Box 973
Kaunakakai, Hawaii 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Waits:

Thank you for your letter postmarked January 27, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. Will the proposed Lā'au Point development have any effect on the shoreline habitat?

Response: Sections 3.6 (Flora), 3.7 (Fauna), and 3.8 (Marine Environment) of the Draft EIS discuss the potential impacts and mitigation measures the Lā'au Point project will have on the shoreline habitat in the area. The project will preserve the shoreline habitat by increasing 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. The measures to protect the shoreline habitat are outlined in the Shoreline Access Management Plan, which will be included in the Final EIS as an appendix.

2. Will the proposed Re-opening of Kaluako'i hotel affect the shoreline habitat in any way at Kaluako'i?

Response: Access to the shoreline in front of the Kaluako'i hotel is currently open and unrestricted, and will remain open and unrestricted even with this project. The environmental impacts of the re-opening of the Kaluako'i Hotel are not addressed in the Lā'au Point EIS because that is a separate project. The specific environmental impacts caused by the re-opening of the Kaluako'i Hotel would have to be addressed in its own environmental assessment for that project when it develops.

3. Who will be held legally responsible to maintain the streams, gulches and floodways as open spaces at Kamāka'ipo Gulch on the west end of the Lā'au Point proposed development site?

Response: As stated in Section 2.3.5 (Project Description) on page 27 of the Draft EIS, the Land Trust would solely own and manage the Kamāka'ipo Gulch. The Molokai Land Trust will be creating plans and setting policy regarding the governing of these lands. Please contact the Land Trust directly for more information.

How will the development of Lā'au Point benefit the Native Habitat?

What effects will the development of Lā'au Point have on the local Monk Seal population?

How will the erosion from the development of Lā'au Point benefit the Subsistence Fisheries?

Under potential impacts and Mitigation Measures how can any increase in runoff benefit the Surrounding Marine Environment?

Would the development to Lā'au Point alter the fishing grounds for future generations?

Will Molokai Properties Limited be held legally responsible in the event of pollution running into the ocean at Lā'au Point?

How did Molokai Properties Limited acquire the (E.C.) Molokai Enterprise Community?

Out of the 150 meeting held for community support, how many people supported the Community-Based Master Land Use Plan for Molokai Ranch?

Who will enforce the CC+R's on the purpose Lā'au development residents?

Are the trustees that go through extensive training in the duties and obligations of a land trust employees of Molokai Ranch?

4. *Who will be legally responsible for all comments and questions to be included in the next Molokai Properties Limited Environmental Impact Statement?*

Response: Section 9.0 (List of Preparers) of the Draft EIS lists all those involved with the preparation of the EIS. Ultimately, the document's preparation is the responsibility of Peter Nicholas, MPL CEO.

5. *What soil types are Federally required for this type of development?*

Response: The Federal government does not require specific soil types for developments.

6. *Do the soil type at La'au Point drain properly for a development site?*

Response: As discussed in Section 3.3.1 (NRCS Soil Survey) and shown in Figure 12 of the Draft EIS, most of the project site consists of Kapuhikani Extremely Stony Clay. These soils are well drained and extremely stony. Runoff is slow to medium, and the erosion hazard is slight to moderate. Other types of soils at the project site include: Very Stony Land, Rock Land, Beaches, and Mala Silty Clay.

7. *How much run-off is expected during a development process of this size?*

Response: As discussed in Section 4.9.1 of the Draft EIS, the current runoff from the proposed lots is 512 cubic feet per second (c.f.s.) for a 50-year 1-hour storm. This is expected to increase by 111 c.f.s. to 623 c.f.s. with the project.

8. *How will the Community-based land trust be governed?*

Response: Please note that the following six questions (including this one) were directed towards the Molokai Land Trust, a separate entity from MPL. The Land Trust's organizational structure and details about the organization's policies are not within the Lā'au Point project's scope, and therefore, was not directly discussed in the Draft EIS. However, we have responded to your questions to the best of our knowledge. To reflect the following information that relates to the project in the Final EIS, as well as to address other questions and concerns regarding the Land Trust, Section 2.1.8 has been revised as shown on the attachment titled, "Revised Section 2.1.8 (Molokai Land Trust)."

The Molokai Land Trust is a private, non-profit corporation organized under Hawaii State Statute HRS-414D and with a determination from the Internal Revenue Service as a public charity under code 509(a)3. It is governed by a board of directors, who will act within the rules and regulations established by these two state and federal codes. They will also be bound under state law to adhere to their Articles of Incorporation and Bylaws.

9. *Who will decide the rules and regulations for the purposed Community based land trust?*

Response: The Land Trust board of directors will determine rules and regulations as written in their bylaws. The Land Trust has adopted the same standards and practices of the Land Trust

Alliance, which is a national organization that focuses on providing support to land trusts. The Land Trust Alliance standards and practices can be reviewed at <<http://www.lta.org/sp/index.htm>>.

10. *How will the land trust determine who is fishing for subsistence and who is fishing for commercial profit?*

Response: This will be difficult to determine. However, the lack of vehicular access will limit harvesting to what can be carried out by hand. Commercial activity will therefore be hard to maintain.

The Land Trust will enforce the Shoreline Access Management Plan (SAMP), which regulates the use of the land and cultural and ocean resources to ensure the continuance of the resources for future generations. The SAMP includes protocols, rules, and permitted activities for persons engaging in cultural activities and subsistence shoreline fishing and gathering in the shoreline area.

As stated in Section 2.3.7 (Access for Subsistence Gathering) of the Draft EIS, State rules would likely be needed to assist with enforcement of the subsistence fishing zone.

11. *What organization will be held legally responsible for the land restrictions proposed by Molokai Properties Limited?*

Response: As stated in Section 2.1.8 (Molokai Land Trust) on page 20 of the Draft EIS, the Land Trust will permanently hold protective easements over a total of 24,950 acres of MPL-owned land; 14,390 acres will be dedicated as agricultural easement land and 10,560 acres will be dedicated as rural landscape reserve easement. The Land Trust will administer agreed upon land use policies for these areas, and enforce the dedicated use of the easement lands.

12. *Why did the Molokai Land Trust register for an approval of its tax exempt 509(a)(3) status?*

Response: The Land Trust chose to apply to the IRS for a determination as a tax-exempt public charity under section 509(a)3 of the IRS code 501(c)3 after lengthy consultation with some of the nation's legal authorities on the governance of land trust organizations. The 509(a)3 tax-exempt public charity status enables the Land Trust to receive monetary, land and easement donations without tax liabilities.

13. *Who are the trustees that have gone through extensive training in the duties and obligations for a land trust?*

Response: There are no Trustees in the Land Trust organization, rather a board of directors. The Board of Directors includes, as of June 1, 2007: Colette Machado, Richard Cooke III, Cheryl Corbiell, William Akutagawa, Stacy Crivello, Clarence Halona Kaopoiki, Edwin Misaki, Davianna McGregor, and David Lunney.

The Land Trust is a Sponsor-member of the Land Trust Alliance (LTA), a national organization that promotes voluntary land conservation and works with nonprofit land trusts by providing information, skills and resources land trusts need to conserve land. The LTA is the national convener, strategist and representative of more than 1,600 land trusts across America. The Land Trust board has also resolved to follow the LTA's Land Trust Standards and Practices, which are guidelines for the responsible operation of a land trust, which is run legally, ethically, and in the public interest and conducts a sound program of land transactions and stewardship. In the future, the Land Trust also plans to seek accreditation from the newly-formed Land Trust Accreditation Commission.

Some Land Trust board members chose to attend the LTA's 2006 annual Land Trust Rally, an intensive 5-day convention containing multiple seminars on every aspect of managing a land trust. Land Trust directors also plan on attending the LTA's Rally in 2007.

The Moloka'i Land Trust Board of Directors also underwent an intensive, 3-day strategic planning and board training session with Marc Smiley, an organizational development consultant based in Portland, Oregon, and previously the Executive Director of the Oregon Natural Resources Council. Marc Smiley, considered the nation's foremost private land trust consultant, has provided consultation services to over 500 land trust organizations nationwide and is currently Chair of the Land Trust Accreditation Commission.

Moloka'i Land Trust directors have committed to building their own capacity, and the capacity of their entire organization through the ongoing attendance of seminars, training events, and private consultation.

14. Does Molokai Properties Limited have any other proposals of development other than Lā'au Point?

Response: MPL plans to renovate and re-open the Kaluako'i Hotel, pending approval of the Lā'au Point project. However, this would not be a new development, rather a renovation of an existing one.

MPL has no other development proposals other than what was outlined in the *Community Based Master Land Use Plan for Molokai Ranch* (Master Plan), such as the future development of affordable homes in conjunction with the CDC in Maunaloa and Kualapu'u, and potentially at some time in future years, a planned extension of the Industrial Park.

15. How will the Moloka'i Properties Limited expand educational opportunities that will build capacity among the islands youth by developing Lā'au Point?

Response: The Moloka'i Community Development Corporation (CDC), not MPL, will expand educational opportunities that will build capacity among the island's youth. The creation of the CDC is proposed in the Master Plan (provided as Appendix A in the Draft EIS). The Lā'au Point project is also proposed as a part of this overall Master Plan.

Lā'au Point's most significant impact on the social environment is its enabling of the Master Plan. While many parts of the Master Plan are important, its core social value is the provision

for community control and self determination. It is community control that will help existing and new residents take care of the shoreline and other conservation areas. It is community control that will mālama cultural resources and promote subsistence activities. It is community control that will develop the right type of affordable housing and will make sure that Moloka'i Style is perpetuated.

This type of community control and self-determination would have a direct impact on capacity building among the youth. The involvement of young people in environmental stewardship, protecting and enhancing cultural resources and engaging in subsistence activities will help to develop pride in their community and culture. They will be able to have a direct impact on the future of Moloka'i and her resources, and this type of accomplishment will develop skills, build confidence and self-esteem, and instill pride as a keiki o ka 'āina.

16. Will the subsistence farmers or fishermen on the east side of Molokai benefit from the proposed Lā'au development?

Response: Subsistence farmers or fishermen on the East side of Moloka'i will not be directly impacted by the Lā'au Point project. Indirectly, the project will finance the reopening of the Kaluako'i Hotel which will create 100 more permanent jobs for the community, stimulating the island's economy. The hotel will also create small business opportunities and a market for local produce, beef and fish. Cumulative and secondary impacts of the project to the rest of Moloka'i are discussed in Section 7.2 of the Draft EIS.

17. Is Well #17 Surface Water?

Response: No. Well 17 pumps groundwater from the Kualapu'u Aquifer.

18. What will happen to the existing Conservation easements of Land on Moloka'i?

Response: We are only able to respond to what will happen to existing Conservation land on MPL properties. MPL's Conservation District lands will be expanded by 254 acres from 180 acres to 434 acres in the Lā'au Point shoreline area. As discussed in Section 2.3.1 of the Draft EIS, the expanded Conservation District at Lā'au will be managed by the Moloka'i Land Trust.

19. What chemicals will be used for the filtration process of Brackish Water?

Response: There are different processes for filtering brackish water. As MPL is not currently pursuing this alternative or identified technology, we cannot answer this question at present.

20. Why does Molokai Ranch state in the EIS that they support agriculture on Molokai?

Response: Molokai Ranch has an agricultural history and the company continues to support agriculture. Outside of the Lodge at Maunaloa and the Kaupoa Campsites, MPL is engaged in ranching. In addition, MPL recognizes that Agriculture is important to maintaining open space, re-charging the aquifer and preventing excessive runoff. As promised in the Master Plan with the implementation of the Lā'au Point project, under protective agricultural easements, 14,390

acres of Molokai Ranch land will be protected forever for agricultural use. These agricultural easement lands are located mostly in Central Molokai near numerous irrigation water sources suitable for high-value or intensive agriculture.

21. How will the increase of water to La'au point benefit the agriculture on Molokai?

Response: The EIS does not make a claim that water use for La'au Point will benefit agriculture. The increase of water to La'au Point will provide additional infrastructure and resources for the transportation of non-potable water to the west end of Molokai. Should the need arise and the appropriate allocation be found, the system could be used to enhance the irrigation system on the West End.

22. How does Molokai Ranch agricultural industry on Molokai benefit the subsistence farmers?

Response: Molokai Ranch helps sustain the infrastructure for agriculture on Molokai. The project will also open up substantial acreage of private MPL land to subsistence hunting and gathering. Subsistence farming will benefit from MPL's agricultural easement lands as stated in our response #20 above.

23. What percent of the 1.5 million gallons per day that the Molokai Properties Limited currently use?

Response: Currently, MPL is permitted to use approximately 1.5 million gallons per day (mgd) to serve the current customers of Molokai Public Utilities and Waiala O Molokai. Today, some of that water, which is drinking water quality, is being used for non-potable needs, such as irrigation. The plan is to use this 1.5 mgd for potable uses only and to develop other sources of non-potable water for irrigation uses. Thus, under the Water Plan, MPL will not be asking for additional potable water than what it currently is allowed to use. MPL, however, will need additional non-potable water once the Kaluako'i Hotel is reopened and La'au Point is developed.

24. What will the environmental impact be from the Molokai Properties Limited developing a new system transmission of water?

Response: As discussed in Section 4.9.2 of the Draft EIS, MPL is not proposing any new systems for transmission of water. All of the water used will be through existing rights of way or existing systems. Therefore, it is not necessary to discuss the environmental impact of a "new system."

25. How will the new system to transmit water to the La'au development affect current agricultural economics on Molokai?

Response: See response to #24 above; a "new system" has not been proposed.

26. What is the expected amount of water needed for the complete Master Land Use plan?

Response: As discussed in Section 4.9.2 of the Draft EIS, and also Section IX of the Water Plan (Chapter 6 of Appendix A in the Draft EIS), long-term water requirements for the lands that

MPL will develop or continue to own are 1,089,520 gallons per day of potable water, and 1,393,425 gallons per day of non-potable water (Total potable + non-potable = 2,482,945 gallons per day). This includes current uses, future uses following reopening of the Kaluako'i Hotel and development of La'au Point, and long-term community directed growth in Kualapu'u and Maunaloa. It does not include any amounts for projects that may be developed by the CDC and for lands that MPL will be gifting to the Land Trust.

27. What is the expected amount of water that will be used for the expected 40% of permanent residents?

Response: To clarify, Section 4.8.1 (Population) of the EIS states that at build-out, it is anticipated that permanent residents will occupy up to 60 homes (30 percent). For full build-out of the La'au Point lots, we will seek 96,000 gallons per day of potable water. This amounts to 480 gallons per household per day, which is slightly less than the county standard of 500 gallons per day per household, but commensurate with actual average water usage on Molokai. As we anticipate that many of these households will be unoccupied for a substantial part of the year, we anticipate that actual water usage will average less than 96,000 gallons per day. However, to meet requirements established by the Public Utilities Commission, we will have to have available the 96,000 gallons per day.

28. Will the tapping of Well #17 for brackish water deplete the aquifer?

Response: No. First, Well #17 develops fresh, not brackish, water. MPL is proposing to obtain brackish water for irrigation from the Kākalahale Well, which is located east of Kaunakakai. Second, MPL already has a permit to pump 1,018 mgd of water from Well 17. In other words, the Water Commission already made the determination that pumping that amount of water from Well 17 will not harm the aquifer. MPL is not proposing to use any more than 1,018 mgd from Well 17.

29. What corporation made the inaccurate educated guess that the build out rate on Kaluako'i will be less than 1% per year on average?

Response: Build-out rates were based on prior experience at comparable projects.

30. Due to the MPL's estimated construction period to be two years the initial erosion protection will require more than expected water usage?

Response: No. Water for construction will be from non-potable water sources that will later be used for irrigation after build-out. To reflect this information in the Final EIS, Section 4.9.2 (Water) has been revised as follows:

Non-Drinking (Non-potable) Water - Initially, water for irrigation and fire protection will be provided from ~~emphas~~ available mountain system water. Water for construction will be from available non-drinking (non-potable) water sources that will later be used for irrigation after build-out. In the long-term, MPL's water plan calls for drawing 1,000,000 gpd of brackish water from the Kākalahale Well for future non-drinking water needs. Of that amount, 340,000 gpd is for the proposed La'au development, 200,000 gpd is proposed for future expansion of Maunaloa and Kualapu'u, and the balance is needed to

Ms. Malia Waits
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 8 of 13

address future demands from existing developed lots, the renovation of the Kaluako'i Hotel, and existing Ranch uses. The Kākahale Well sits at elevation 980 feet and was drilled in 1969 to provide drinking water to Kaluako'i. However, due to the brackish water quality, the well was never used as a production well.

31. *How does treated water from a drainage control system benefit the fish population for the subsistence fishermen?*

Response: As discussed in Section 4.9.3 of the Draft EIS, treated water from the wastewater treatment facility will be disinfected to remove pathogens. It will not be discharged directly into the ocean, but rather it will be used to irrigate landscaped areas, saving the potable water for domestic use. The drainage control will improve the nearshore marine habitat by controlling or altogether preventing the flow of sediment into the ocean that now occurs on the west end during storm episodes. The drainage systems will allow water to percolate into the ground.

32. *How does the treated water improve the water quality offshore?*

Response: See response to #31 above. Runoff and its impacts on offshore water quality were discussed in the Draft EIS. As discussed in Section 3.8 (Marine Environment), several measures planned for Lā'au Point will protect nearshore waters from increased degradation of water quality, such as drainage control systems, CC&Rs to regulate the use of fertilizers and pesticides, re-vegetation as a means of permanent erosion control measures throughout the developed areas, and fencing to keep deer and other animals from disturbing the soil near the community. Therefore, it is likely that the long-term water quality in adjacent coastal waters may be improved by these measures.

33. *How does the treated water effect the monk seal population?*

Response: See response to #32. The treated water will likely not reach adjacent coastal waters and therefore have no effect on Hawaiian monk seals.

34. *How will the short term impacts of construction effect the fish for the subsistence fishers?*

Response: Best Management Practice measures will be taken to control the short-term impacts of construction in the proposed development area.

35. *Why would Molokai Properities limited open Kaluako'i resort?*

Response: Between March 2 and May 10, 2004, a total of 61 people participated in the Tourism Committee of EC Project #47 looking at aspects of what the island wanted for its tourism future. That committee voted unanimously for its desire to see the re-opening of the Kaluako'i Hotel.

MPL has made the commitment to the community that it will re-open the Hotel. MPL was originally requested to do so by the EC to help stimulate the economy and create jobs on Molokai. MPL views the re-opening of the Hotel as a win-win situation. Properly managed the

Ms. Malia Waits
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 9 of 13

Hotel could be a viable and profitable business operation for MPL and serve to stimulate additional elements of the Molokai economy.

As discussed in Section 4.8.4 of the Draft EIS, redevelopment of the Kaluako'i Resort (Hotel and Golf Course) is essential to island's tourism economy. The *Moloka'i Responsible Tourism Initiative Report* (McGregor 2006) indicates there is community support for the re-opening of the Kaluako'i Hotel as a mid-range hotel. These facilities are crucial to revitalizing the Moloka'i economy and are projected to provide over 100 jobs for Moloka'i residents.

36. *What is the expected future growth be at Kaluako'i properties?*

Response: MPL's future growth is outlined in the Master Plan (Appendix A in the Draft EIS). MPL has no other future plans outside of what is proposed in the Master Plan.

37. *Why would Molokai Properities Limited like to develop Kaluako'i Hotel?*

Response: See our response to #35 above.

38. *Will the proposed houses on La'au Point have swimming pools?*

Response: Swimming pools will be at the discretion of the homeowner within the limits contained in the CC&Rs.

39. *How will the development of La'au Point benefit the Native Habitat?*

Response: See our response to #1 above.

40. *What effects will the development of La'au Point have on the local monk seal population?*

Response: Mitigation measures will minimize potential impacts to Hawaiian monk seals. 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.

Ms. Malia Waits

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 10 of 13

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)." The SAMP has been included as an appendix to the Final EIS.

41. *How will the erosion, from the development of Lā'au Point benefit the subsistence fisheries?*

Response: As discussed in Sections 3.8 (Marine Environment) and 4.9.1 (Drainage) of the Draft EIS, drainage control measures will improve the nearshore marine habitat by controlling or altogether preventing the flow of sediment into the ocean that now occurs on the West End during storm episodes.

42. *Under potential impacts and Mitigation measures how can any increase in runoff benefit the surrounding Marine Environment?*

Response: As discussed in Sections 3.8 and 4.9.1 of the Draft EIS, Lā'au Point will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream marine environment and near shore and offshore water quality. Surface and/or subsurface retention facilities will be sized to retain the difference in peak runoff in each lot.

43. *Would the development to Lā'au Point alter the fishing grounds for future generations?*

Response: The Cultural Impact Assessment (Section 4.2 of the Draft EIS) indicated that Moloka'i subsistence fishermen felt the new Lā'au Point residents would probably not directly damage the fishing grounds because they would not know how to fish. The fishing grounds have already been altered by offshore boaters, the opening of the Kaluakoi Resort, Papohaku Subdivision, and the opening of Hale O Lono Harbor.

The fishermen feel the real impact on the fishing resources comes from Honolulu boaters fishing all along the west end and south shore (for commercial purposes), and fishing out the grounds of lobster and fish. Therefore, to preserve inshore fishing/subsistence resources, a subsistence

Ms. Malia Waits

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

November 1, 2007

Page 11 of 13

fishing management zone in the coastal waters along all of the Ranch's coastline property will be created, as recommended in the *Community-Based Master Land Use Plan for Molokai Ranch*.

The Shoreline Access Management Plan (SAMP) seeks to minimize the impacts to the marine resources and to establish a community-based subsistence fishing management area to protect the marine resources. The SAMP has been included as an appendix to the Final EIS.

44. *Will Molokai Properties Limited be held legally responsible in the event of pollution running into the ocean at Lā'au Point?*

Response: During construction, MPL will be legally responsible if pollution caused by the project runs into the ocean. After build-out, the homeowners' association will be responsible for maintaining drainage/erosion-control systems as stated in the CC&Rs (see Section 2.3.6 of the Draft EIS and page 102 of Appendix A in the Draft EIS).

45. *How did Molokai Properties Limited acquire the (EC) Molokai Enterprise Community?*

Response: MPL did not acquire the Moloka'i EC. MPL and the EC are two separate entities. EC Board members have acted independently in facilitating and later approving the Master Plan.

46. *Out of the 150 meeting held for community support, how many people supported the Community-Based Master Land Use Plan for Molokai Ranch?*

Response: Sub-committees of Project #47 Molokai Sustainable Development looked at specific aspects of a wider Master Plan between March and July 2003--Economics, Cultural, Tourism, Environment and Recreation. Most committees, with the exception of the Economics committee that had difficulties in focusing on the future economics of the island, voted unanimously in passing recommendations on their particular focus areas to the Land Use Committee.

A total of 63 committee meetings were held. Those committees never focused on an overall Master Plan, because they were focusing on specific areas of interest and out of the individual committees recommendations were studied by the Land Use Committee and a Master Plan developed.

Many informational meetings were also held (see Section 2.4 in the Draft EIS) and at those meetings, encouraging support was given to continue with the Master Plan process as it was unprecedented in the State.

The sub-committees considered aspects of the property's use. The recommendations from the sub-committees, which were passed by majority, and in some cases, unanimous vote, were then discussed by the Land Use Committee, along with the questions of water and the Lā'au development. The Land Use Committee voted by a 70 percent majority to recommend the Master Plan to the EC for ratification.

Ms. Malia Waits
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 12 of 13

47. Who will enforce the CC&Rs on the purpose La'au development residents?

Response: The enforcement of the CC&Rs shall be pursued by the Lā'au Point homeowners' association, affected persons such as the Land Trust who will be a party to the CC&Rs, and in certain situations MPL, as the declarant under the CC&Rs. The CC&Rs will be enforceable by all legal matters. To include this information in the Final EIS, Section 2.3.6 (Covenants) will be revised as follows:

As previously stated: Lā'au Point aims to attract people who respect the unique character of the site and Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Residents of Lā'au Point will be educated and informed about the environment and culture, and taught to "mālama'āina," take care of the land and sea, through strict Conditions, Covenants, & Restrictions (CC&Rs) attached to the subdivision. The CC&Rs provide that every person whose name is on the property title must commit to undergo a certain amount of education about the Moloka'i community and its desires and aspirations with kupuna and the Maunaloa community. This will be conducted under the guidance of the Moloka'i Land Trust. The CC&Rs have been strengthened to protect the environment and resources at Lā'au Point. Enforcement and substantial penalties will be put in place to ensure that the covenants are respected and upheld. Although the CC&Rs are currently under development, because of the Master Plan process (Section 2.1.6), MPL does have a general idea of what the CC&Rs and some of the key provisions and concepts will be.

The CC&Rs will be monitored and enforced by the Board of the Association of Owners of Lā'au Point (the Board), 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.

48. Are the trustees that go through extensive training in the duties and obligations of a land trust employees of Molokai Ranch?

Response: There are no "trustees" in the Land Trust, rather a board of directors. MPL provides technical assistance to the Land Trust; however, MPL does not have a voting seat. There are no MPL employees serving as voting members on the Land Trust board of directors.

Thank you for reviewing the Draft EIS. Your letter will be included in the Final EIS.

Ms. Malia Waits
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 13 of 13

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachments:
Revised Section 2.1.8 (Moloka'i Land Trust)
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

Mark Ignash
2591 Dole Street, Apt. #11452, Honolulu, HI 96822
mignash@gmail.com

February 21, 2007

HPBR 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
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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. Nicholas:

I am writing because of a concern that has been raised regarding La'au Point. Truthfully, the way that I see it is that as soon as you develop on La'au Point, the natural beauty and essence will be lost forever. It does not matter how far back you set the developments or how many homes you limit it to, once you place a strong developed community in the area an extreme loss will occur.

I know that the main "kickback" here is money, but stop to think if money is even the true concern by all of those who oppose this development. It is not. All that is wanted is for the land to be left as is. This is a deal that can be made

free of charge - simply leave it be, people are voicing their thoughts and this is what is wanted. Everyone sees that this is another effort to bring in income, but look to see the other hotels that have been built to do the same - they failed in the same effort as this new development aims to solve. Also, the idea of limiting the development to 200 homes is a noble one, however these lots are already planned to be subdivided into smaller lots to be sold to others, thus you could have each lot broken into four, making a total of 800 lots and 800 homes. This makes for a much larger population than you say will be present, and I just do not feel that La'au Point can handle that many people without losing its own essence of existence. Look at Waikiki for example, the beach is still "preserved" for people but the essence of what the land was before the city is most definitely lost. This sounds a lot like La'au Point to me, since you will preserve the beach for people to enjoy, however once homes are installed whatever is left is lost.

Also, consider the natural inhabitants of the area, such as monk seals. Even though the fine beach area will be preserved for people, will it be preserved for the animals? Many think not. It has been witnessed all over the world - once people move in, many animals are simply forced to move out. The monk seal's natural habitat simply does not allow for multiple human families to be parading around its natural space. And if the monk seal moves out, it will most likely only become more endangered than it already is. Who has the right to take so much away from creatures that require so little? If the monk seal's habitat is La'au Point, let them keep it in a world where it seems that not even one stretch of sand can be held sacred.

Simply put, it is clear that the people of Molokai do not want this, and also that the natural animals of the area probably would not want this either, so really, where is the question in the matter? Leave La'au Point as it is and as it has been, do not try to fix what is not broken. La'au Point in its current form is as luxurious as it could ever be, building million dollar homes on it will only depreciate its true value, to the current generations and to the generations to come.

Sincerely,



Mark Ignash



Mark Ignash
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 4

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 Plan may not be realized.

Specifically regarding the re-opening of Kaluako'i Hotel, the community supports the re-opening of the Kaluako'i Hotel as a mid-range hotel (discussed in Sections 2.1.7 and 4.8.3 of the Draft EIS). Funding for the Kaluako'i Hotel and Golf Course renovations will come from sales of the Lā'au Point rural-residential lots. The *Moloka'i Responsible Tourism Initiative Report* (2006) indicates: "Kaluako'i resort development is essential to the island's tourism economy" (p. 21). Jobs will be created at the resort and elsewhere. By outsourcing various hotel functions such as laundry, gift shop, beach shack and spa, and by committing to use local produce, small business opportunities will also be created for the community.

2. *Also, the idea of limiting the development to 200 homes is a noble one, however these lots are already planned to be subdivided into smaller lots to be sold to others, thus you could have each lot broken into four, making a total of 800 lots and 800 homes. This makes for a much larger population than you say will be present, and I just do not feel that La'au Point can handle that many people without losing its own essence of existence. Look at Waikiki for example, the beach is still "preserved" for people but the essence of what the land was before the city is most definitely lost. This sounds a lot like La'au Point to me, since you will preserve the beach for people to enjoy, however once homes are installed whatever is left is lost.*

Response: Lā'au Point will contain 200 rural residential lots. As clearly stated on page 29 in Section 2.3.6 of the Draft EIS, "No further subdivision of lots will be allowed."

3. *Also, consider the natural inhabitants of the area, such as monk seals. Even though the fine beach area will be preserved for people, will it be preserved for the animals? Many think not. It has been witnessed all over the world — once people move in, many animals are simply forced to move out. The monk seal's natural habitat simply does not allow for multiple human families to be parading around its natural space. And if the monk seal moves out, it will most likely only become more endangered than it already is. Who has the right to take so much away from creatures that require so little? If the monk seal's habitat is La'au Point, let them keep it in a world where it seems that not even one stretch of sand can be held sacred.*

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 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

November 1, 2007

Mark Ignash
2591 Dole Street, Apt. #11452
Honolulu, Hawai'i 96822

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Ignash:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. *I know that the main "kickback" here is money, but stop to think if money is even the true concern by all of those who oppose this development. It is not. All that is wanted is for the land to be left as is. This is a deal that can be made free of charge --- simply leave it be, people are voting their thoughts and this is what is wanted. Everyone sees that this is another effort to bring in income, but look to see the other hotels that have been built to do the same --- they failed in the same effort as this new development aims to solve.*

Response: We disagree with your comment. 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* (Master 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 Master Plan. The goal of the Master 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 Master 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 culturally 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.

Mark Ignash
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 4

Mark Ignash
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

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 La'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)." The SAMP has been included as an appendix to the Final EIS.

4. *Simply put, it is clear that the people of Molokai do not want this, and also that the natural animals of the area probably would not want this either, so really, where is the question in the matter? Leave La'au Point as it is and as it has been, do not try to fix what is not broken. La'au Point in its current form is as luxurious as it could ever be, building million dollar homes on it will only depreciate its true value, to the current generations and to the generations to come.*

Response: We note that there are both supporters and opponents to this project. As was concluded in the Cultural Impact Assessment (Appendix F of the Draft EIS), the overall Master Plan is not a perfect plan. However, it is still "truly a grassroots community plan which represents a historic good faith effort on the part of Molokai Properties Limited and Ke Aupuni Lokahi-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). The Master Plan is a thoughtful and comprehensive compilation of many community members' visions for Moloka'i. The La'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 (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

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

had a thriving "local" community, one that was locally based and locally fed. In general the maka ahana did not become millionaires or make a lot of noise about themselves, but they did live a life based more on the love they felt for their island and each other than the love of any money that might come to pocket. Many have since been seduced by the glitz and glamour, riding the wave of real estate fortune in exchange for a good time now, realizing only too late the real price of selling their land. But for a relatively small group of the natural population there is no place other than these islands that can be rightfully called home. People instinctively realize the value in that and so it means something to them.

They remember and like to share about when things were different, often characterized by the list of things "we never had back then". On the list were such items as:

Streetslights
Traffic
Malls and big box stores
Fast food and Convenience stores
We didn't even have to lock our doors.

The upside of having little is there's little to steal, or to sell, or otherwise have seduced away. Those who are seduced out of selling their land soon realize that they can never turn back. Those who do not sell are saddled when the old neighbors leave and are replaced by new neighbors who only know how to take, take, take. So leave or stay, either way they lose.

The Hawaiians then and now are not rich by any of the common rational methods of accounting, but the lives they hold the freedom to is beyond price. Way past American Idol or the one where they vote you off the island? You know, the TV show that teaches attitudes that eliminating one's competition as a way to get ahead is acceptable behavior? An idea portrayed on the "reality show" to an unhealthy extreme, contrary to healthy life in a society based on the concept of mutual dependence. Just another of many modern ideas toxic to the social structure that once made Hawaii a paradise on earth.

Proposed addendum to the original 835 page report prepared by PBR Hawaii and associates Inc.

To properly address the social impact of further development on the human population of Molokai, more than one report should be generated from inside the community. I offer my attempt to describe the essence of the problem, at least as I see it, and offer a proposed solution. No man should presume to speak for another, and I won't pretend to speak for Molokai, nor am I running for office, but the people who have ancestral ties to Molokai, at least in spirit, will let it be known whether or not they agree.

A little background is in order. The basic Hawaiian social system cannot be described or for that matter priced, according to a monetary based economic system. The pre-European-contact culture of Hawaii nei did not make a big issue of monetary value of trade goods. A different (and to the accountant totally incomprehensible) system was in use, and it revolved around the practical application of the basic idea behind, "If you need it and I have it, it's yours. If I find myself in need and it is within your power to help, I know I can count on help from you." The value of such a transaction is not gauged against a decimal scale. Both sides of the transaction get in turn what they need without regard to the precision of money or the baggage that money carries along.

There are Hawaiian people who have managed to get along in the world of finance, but by and large they find themselves not at home with the business of making money. It is unfair to consider them inferior just because they haven't in great numbers climbed the economic ladders built for the amusement of those who would design and build them, hierarchies based on the concentration of power at another's expense. In reality it is just against the prevailing Hawaiian nature to climb such rational stairs. More in keeping with Hawaiian nature is to worry less about the annoying details of the outside world and more about living life as a free Hawaiian.

I'm talking about real life here. Not the "real world" of the swinging socialite looking for an exclusive retreat in the tropics, but a place where you regularly break a sweat and get dirty doing it. A place where island wide parties are held and where six inch stinging centipedes crawl into bed with you in the middle of the night. It is not meant to be an easy life, in fact there was never intended to be an easy street anywhere on Molokai, but it is a life where a person has the freedom of thought that only comes from turning down the volume on the commercial interests, then learning to listen and dance to the beat of a far older and in many ways much wiser drummer. Molokai is the last remaining place in Hawaii where it is still possible to live the kind of life that can only be led in relative isolation. The people of Molokai are not a bunch of hermits mind you but live in small integrated communities of people who work and play together. We live lives where we know and respect our neighbors, where everybody contributes his part to the welfare of the whole. Work is done for compensation at times, to support the acquisition of things that can be had through no other means, but as often as not what is offered

While poverty (in a word) sucks, there are more important details in life than making enough money to buy all the so called "necessities" of modern living. Such more important details were carefully attended to in the past, items such as making sure the kids are fed a loving diet of genuine care for their emotional and physical wellbeing. A program continued to this day by a concerned population who does not want to witness the last island of what is truly Hawaiian. It has long been in the Hawaiian dream that their children and the children they have yet to dream of, will rule their own future. To take the beat the past has to offer and preserve its living essence simply by living it, is finally rooted in the Hawaiian dream.

The Hawaiian heart holds no prejudice based on bloodline, and Hawaiians as a population have been most gracious in mixing their genes with those of many other races, so that by the dawn of the twenty first century the breed is loosely defined and quite varied. What still flows through is the essence of a distinctly Hawaiian spirit, clearly visible, palpable where it still survives. I propose we nurture that spirit and see what grows.

The Hawaiian spirit starts with a deep love for the aina; not just the land advertised in the ever burgeoning real estate section of our papers, but the concept that includes all the spirits of the land. Aina could be read literally as "feed many"; and that aina, in unbroken plains from the tops of the cloud soaked mountains to the salty water wetland interface represents an abundant larder, a reliable source of food and water for a small population if properly managed. It is and always should be possible for a person on Molokai to feed themselves and their family through a personal ability to nurture the aina and accept its offerings.

To achieve such, ideals requires clear vision and education, of the type that mothers and fathers and aunts and uncles should be sharing as a matter of daily life. It requires the time and energy to pursue these ideals. It requires access to the aina restricted only by the kapu of the Council of Practitioners, the Aha if you will, who should as in the past govern through the wisdom of their combined experience. Subsistence is the goal, to learn to meet our own energy needs, and feed ourselves. On Molokai now are some people of great talent in these regards. Provide us with unfenced open spaces for the practice of hunting, gathering, and tending our small herds to feed only ourselves and wild space in which to enrich the soul. Certain elements of the MEL proposed Plan provide handsomely toward these goals. If there's an omission to the plan has to do with nurturing the spirit and ideals necessary to re-integrate an agrarian society into the beliefs and social practices that would continue those desirable traits of Hawaiian society. Imagine Hawaiians who not just revere but actually live the core values of their ancestors.

A child cannot do what he was never taught how, unless of course he realizes the importance of mastering an issue and tasks it to himself, a difficult and time consuming way to learn that should be commonly taught, and by extension become common sense. A child cannot be taught to live a pono life by a father and mother too busy trimming grass or scrubbing toilets for rich land owners, to properly care for themselves or their kids. Maybe mommy and daddy never had the chance to learn too. I envision a grass roots system of learning that involves all of us sharing our mana'o about all the things we do. Open ourselves up to the healing that can only come from understanding and forgiveness.

2

Mani thirty years ago, within the span of many living memories was much like Molokai. There were good points and bad, but on the cusp of the moneymaker's dream it had a thriving "local" community, one that was locally based and locally led. In general

something that won't lead directly to the destruction of the Hawaiian spirit. This author is not Hawaiian by blood, but only share with you what they have taught me.

The issue that has come to share the name of the southwestern most land on Molokai runs much deeper than the cost to benefit ratio of the proposed development. The word Lanu in Hawaiian can refer to several things depending on the context it is offered in. It may mean a tree or the wood of a tree. It may mean a stick or a branch or to strike with a stick. Anything that is ku, upright and rigid is said to be Lanu. It is a term for virility and potency. To the Hawaiian people, to lose one's Lanu, you might as well lose the whole thing. The plan is good but the price unaffordable. It is to my way of thinking unacceptable to save a portion of the land, only to lose the spirit that relies on the community of Molokai to be left intact.

So if it all boils down to price, can Molokai afford it? Bottom line is yes, but only if we all agree to work together on it, to put our hearts into it. Fortunately in Hawaii we have a native tool to teach us how to work together. As a cooperation teaching tool the canoe is superb, but not an end in itself. Like all tools it has a place in the balanced life. Other aspects of village life, easily missed to those engaged in the foreign pastimes of making money or watching poorly chosen TV, are equally important. Molokai happens to be photogenic, the rugged landscape, the canoes and the native people who paddle them. And since a problem should provide its own best solution Molokai also has the on-island talent to produce books and high quality video about the lessons of this life; we ask only that we be encouraged, don't left alone to do it.

Simply as possible I offer my statement of impact and a vision of a better future. If we're going to seal Molokai don't seal it bit and piece, you might as well be selling the whole thing to the spirit of Molokai, and her grandchildren yet to be.

Sincerely,

Mary Johnston

6



Marty Johnston
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 4

November 1, 2007

Marty Johnston
P.O. Box 49
Kualapuu, Hawaii 96757

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Johnston:

Thank you for your letter transmitted via facsimile and dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge and appreciate the viewpoint you shared with us in your letter. Below, we respond to your comments.

1. *Proposed addendum to the original 835 page report prepared by PRR Hawaii and associates Inc. To properly address the social impact of further development on the human population of Molokai, more than one report should be generated from inside the community. I offer my attempt to describe the essence of the problem, at least as I see it, and offer a proposed solution. No man should presume to speak for another, and I won't pretend to speak for Molokai, nor am I running for office; but the people who have ancestral ties to Molokai, at least in spirit, will let it be known whether or not they agree. A little background is in order. The basic Hawaiian social system cannot be described or for that matter priced, according to a monetary based economic system. The pre-European-contact culture of Hawaii nei did not make a big issue of monetary value of trade goods. A different (and to the ancients totally incomprehensible) system was in use, and it revolved around the practical application of the basic idea behind, "if you need it and I have it, it's yours. If I find myself in need and it is within your power to help, I know I can count on help from you." The value of such a transaction is not gauged against a decimal scale. Both sides of the transaction get in turn what they need without regard to the precision of money or the baggage that money carries along. There are Hawaiian people who have managed to get along in the world of finance, but by and large they find themselves not at home with the business of making money. It is unfair to consider them inferior just because they haven't in great numbers climbed the economic ladders built for the amusement of those who would design and build them; hierarchies based on the concentration of power at another's expense. In reality it is just against the prevailing Hawaiian nature to climb such rational stairs. More in keeping with Hawaiian nature is to worry less about the annoying details of the outside world and more about living life as a free Hawaiian. While poverty (in a word) sucks, there are more important details in life than making enough money to buy all the so called "necessities" of modern living. Such more important details were carefully attended to in the past, items such as making sure the kids are fed a loving diet of genuine care for their emotional and physical wellbeing. A program continued to this day by a concerned population who does not want to witness the last stand of what is truly Hawaiian. It has long been in the Hawaiian dream that their children and the children they have yet to dream of will rule their own future. To take the best the past has to offer and preserve its living essence simply by living it, is firmly rooted in the Hawaiian dream. The Hawaiian heart holds no prejudice based on bloodline, and Hawaiians as a population have been most gracious in mixing their genes with those of many other races, so that by the dawn of the twenty first century the breed is loosely defined and quite varied. What still flows though is the essence of a distinctly Hawaiian spirit, clearly visible, palpable where it still survives. I propose we nurture that spirit and see what grows. The Hawaiian spirit starts with a deep love for the aina; not just the land advertised in the ever burgeoning real estate section of our papers, but the concept that includes all the spirits of*

Molokai Properties Limited dba Molokai Ranch • 745 Fort Street Mall • Suite 600 • Honolulu, Hawaii 96813 •
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the land. Aina could be read literally as "feed many"; and that aina, in unbroken plains from the tops of the cloud soaked mountains to the salty water wetland interface represents an abundantarder, a reliable source of food and water for a small population if properly managed. It is and always should be possible for a person on Molokai to feed themselves and their family through a personal ability to nurture the aina and accept its offerings.

Response: Thank you for your proposed addendum; your letter will be reproduced in its entirety in the Final EIS.

2. *To achieve such ideals requires clear vision and education, of the type that mothers and fathers and aunts and uncles should be sharing as a matter of daily life. It requires the time and energy to pursue these ideals. It requires access to the aina restricted only by the kapu of the Council of Practitioners; the Aha if you will; who should as in the past govern through the wisdom of their combined experience. Subsistence is the goal, to learn to meet our own energy needs, and feed ourselves. On Molokai now are some people of great talent in these regards. Provide us with unfenced open spaces for the practice of hunting, gathering, and tending our small herds to feed only ourselves and wild space in which to enrich the soul. Certain elements of the MPL proposed Plan provide handsomely toward these goals. If there's an omission to the plan has to do with nurturing the spirit and ideals necessary to re-integrate an agrarian society into the beliefs and social practices that would continue those desirable traits of Hawaiian society. Imagine Hawaiians who not just revere but actually live the core values of their ancestors.*

Response: We acknowledge your comments about subsistence and agree with your comment that certain elements of the Plan provide handsomely toward these goals. The maintaining of subsistence activities with this project was addressed in Sections 2.3.7 (Access for Subsistence Gathering), 4.2 (Cultural Resources), and 4.3 (Trails and Access) of the Draft EIS.

3. *A child cannot do what he was never taught how, unless of course he realizes the importance of mastering an issue and tasks it to himself a difficult and time consuming way to learn that should be commonly taught, and by extension become common sense. A child cannot be taught to live a pono life by a father and mother too busy trimming grass or scrubbing toilets for rich land owners, to properly care for themselves or their kids. Maybe mommy and daddy never had the chance to learn too. I envision a grass roots system of learning that involves all of us sharing our mana'o about all the things we do. Open ourselves up to the healing that can only come from understanding and forgiveness.*

Response: We acknowledge your comments.

4. *Maui thirty years ago, within the span of many living memories was much like Molokai. There were good points and bad, but on the cusp of the moneymaker's dream it had a thriving "local" community, one that was locally based and locally fed. In general had a thriving "local" community, one that was locally based and locally fed. In general the maka ahiana did not become millionaires or make a lot of noise about themselves, but they did live a life based more on the love they felt for their island and each other than the love of any money that might come to pocket. Many have since been seduced by the glitz and glamour, riding the wave of real estate fortune in exchange for a good time now, realizing only too late the real price of selling their land. But for a relatively small group of the natural population there is no place other than these islands that can be rightfully called home. People instinctively realize the value in that and so it means something to them. They remember and*

Marty Johnston

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007

Page 3 of 4

like to share about when things were different, often characterized by the list of things "we nevah have back then". On the list were such items as: Streetlights Traffic Malls and big box stores Fast food and Convenience stores. We didn't even have to lock our doors.

Response: We acknowledge your comments.

5. *The upside of having little is there's little to steal, or to sell, or otherwise have seduced away. Those who are seduced out of selling their land soon realize that they can never turn back. Those who do not sell are saddled when the old neighbors leave and are replaced by new neighbors who only know how to take, take, take. So leave or stay, either way they lose. The Hawaiians then and now are not rich by any of the common rational methods of accounting, but the lives they hold the freedom to is beyond price. Way past American idol or the one where they vote you off the island? You know, the TV show that teaches attitudes that eliminating one's competition as a way to get ahead is acceptable behavior? An idea portrayed on the "reality show" to an unhealthy extreme, contrary to healthy life in a society based on the concept of mutual dependence. Just another of many modern ideas toxic to the social structure that once made Hawaii a paradise on earth.*

Response: We acknowledge your comments.

6. *I'm talking about real life here. Not the "real world" of the swinging socialite looking for an exclusive retreat in the tropics, but a place where you regularly break a sweat and get dirty doing it. A place where island wide parties are held and where six inch stinging centipedes crawl into bed with you in the middle of the night. It is not meant to be an easy life, in fact there was never intended to be an easy street anywhere on Molokai, but it is a life where a person has the freedom of thought that only comes from turning down the volume on the commercial interests, then learning to listen and dance to the beat of a far older and in many ways much wiser drummer. Molokai is the last remaining place in Hawaii where it is still possible to live the kind of life that can only be led in relative isolation. The people of Molokai are not a bunch of hermits mind you but live in small integrated communities of people who work and play together. We live lives where we know and respect our neighbors, where everybody contributes his part to the welfare of the whole. Work is done for compensation at times, to support the acquisition of things that can be had through no other means, but as often as not what is offered something that won't lead directly to the destruction of the Hawaiian spirit. This author is not Hawaiian by blood, but only share with you what they have taught me.*

Response: We acknowledge your comments.

7. *The issue that has come to share the name of the southwestern most land on Molokai runs much deeper than the cost to benefit ratio of the proposed development. The word Laau in Hawaiian can refer to several things depending on the context it is offered in. It may mean a free or the wood of a tree. It may mean a stick or a branch or to strike with a stick. Anything that is ku, upright and rigid is said to be Laau. It is a term for virility and potency. To the Hawaiian people, to lose one's Laau, you might as well lose the whole thing. The plan is good but the price unaffordable. It is to my way of thinking unacceptable to save a portion of the land, only to lose the spirit that relies on the community of Molokai to be left intact.*

Response: We acknowledge your comments. We note that the name of Lā'au Point was discussed in Section 4.2 (Cultural Resources) of the Draft EIS.

Marty Johnston

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007

Page 4 of 4

8. *So if it all boils down to price, can Molokai afford it? Bottom line is yes, but only if we all agree to work together on it, to put our hearts into it. Fortunately in Hawaii we have a native tool to teach us how to work together. As a cooperation teaching tool the canoe is superb, but not an end in itself. Like all tools it has a place in the balanced life. Other aspects of village life, easily missed to those engaged in the foreign pastimes of making money or watching poorly chosen TV, are equally important. Molokai happens to be photogenic; the rugged landscape, the canoes and the native people who paddle them. And since a problem should provide its own best solution Molokai also has the on-island talent to produce books and high quality video about the lessons of this life; we ask only that we be encouraged, then left alone to do it. Simply as possible I offer my statement of impact and a vision of a better future. If we're going to sell Molokai don't sell it bit and piece, you might as well be selling the whole thing to the spirit of Molokai, and her grandchildren yet to be.*

Response: Thank you for your statement of support. We agree that Molokai's future requires that we "work together" and "put our hearts into it."

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

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Peter Nicholas/John Sabas
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 21, 2007
Page 1

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February 21, 2007

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Office of Environmental Quality Control
235 S. Beretania St., Suite 702
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Attention: Genevieve Salmonson
Fax: (808) 586-4185

Re: **COMMENTS ON DEIS FOR LA'AU POINT**

Dear Messrs. Nicholas, Sabas, Witten, Ching and Ms. Salmonson:

As a Land Use Committee member and a key player in the push to find alternative solutions to the Plan, it is my opinion that the general community process was rushed and that many of the claims found in the DEIS are

Peter Nicholas/John Sabas
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 21, 2007
Page 2

inaccurate representations. There is undoubtedly much potential for the Plan to be something that is truly good for Molokai, but not in its current form.

I write specifically to give perspective on Section 6.0 "Alternatives to the Proposed Action" of the DEIS.

Contrary to the stated findings found in the DEIS, there are workable alternative solutions for achieving the general goals of the project without development of La'au Point. MPL, however, entered into this process intending to push the La'au development without real consideration for alternatives.

With a little examination MPL's efforts to invalidate and/or discourage the search for alternatives becomes evident. Discussion of the La'au development, for example, was intentionally held until the end of the community process and it came pre-packaged (based on a previous development proposal). Talk of finding alternatives was widespread in the community throughout the process, yet community input on potential alternative economic engines was never a planned or welcomed aspect of the process.

It needs to be made clear that the Alternatives to La'au Development Committee (ALDC) was forced into the EC process by frustrated community members who were concerned about the fact that alternatives were not being discussed. Unfortunately, the ALDC has been made into a scapegoat, and the MPL/EC failure to find workable alternatives have unjustly been placed on this committee. The ALDC, although allowed to play the part, was set-up for failure.

MPL's DEIS tries to present a strong case that MPL and the EC did, in fact, examine alternatives, but this is not the case. At best, MPL walked through the motions of looking at alternatives while making no real effort to verify its findings. At worst, the alternatives effort was contrived to satisfy the requirements of the EIS, while real efforts to find alternatives were purposely suppressed and invalidated.

In its DEIS, MPL has manipulated critical facts that, when brought to light, prove that the alternative effort was never honored or carried out with any level of integrity. I have addressed these key inaccuracies below and, where appropriate, have suggested corrections.

Section 6.0 "Alternatives to the Proposed Action"

- Page 144 - "MPL in conjunction with the EC... examined a range of alternatives to the proposed La'au Point development."
 - This is misleading and suggests that the EC was involved in generating alternatives. The only alternatives presented during the entire process, prior to the Land Use Committee (LUC) and EC votes, were presented to the LUC and were generated by MPL as found between pages 150-154 of the EIS. No hard questions were asked and no follow-up work or evaluation was done by the LUC. MPL's presentation was accepted "as-is." This is problematic as the "community" was never invited to participate in the search for or evaluation of alternatives.
 - **Suggested corrections** – change wording to: "MPL examined a set of internally generated alternatives to the proposed La'au Point development."
- Page 144 – "The (ALDC) and an outside planning consultant were funded and sponsored by the EC to find alternatives... and review all the alternatives from the community and off-island."
 - Again, this is misleading. What needs clarification is that the ALDC was formed by frustrated members of the community who had to petition the EC for the ALDC to become a part of the "community" process.
 - The ALDC was not formed until November of 2004. EC funding to support the work of the ALDC was not secured until June 2006!
 - The reason the ALDC formed was because no action was being taken by the EC to allow the community to address potential alternatives to La'au Point. While there was a Tourism Committee, Economics Committee, Environment Committee, & Cultural Committee – no Committee was formed to look at the La'au development and other potential economic engines. In fact, the La'au Point proposal was not released for discussion until all of these other committees had finished their work.
 - The point is that the EIS suggests that the search for alternatives was a fundamental part of the process, when the ALDC was, in fact, forced into the process by concerned community members and began its work late in the planning process.

- **Suggested corrections** – include the provided background giving insight to the formation of the ALDC as well as a timeline of the ALDC's efforts.
- Page 144 – "In April 2005, MPL reported to the Land Use Committee and the ALDC on its review of 10 alternatives that had been proposed over the previous 14 months by a variety of community members and planners, including alternatives proposed by the ALDC planning consultant."
 - This statement is false.
 - MPL claims to have reported in April 2005 its review of "alternatives proposed by the ALDC planning consultant" when the ALDC consultant did not deliver his report until October of 2005. MPL never reported a review of the planning consultant's work to the ALDC. Did MPL report a review of this work to the EC? If so, when?
 - The ALDC alternatives report was not given consideration prior to the EC's vote to approve the Master Plan in November of 2005.
 - The statement "alternatives that had been proposed over the previous 14 months by a variety of community members and planners" offers no validity. How could well-developed alternatives have been proposed 14 months prior to April 2005, when the ALDC was not formed until November 2004 (less than 6-months prior)? Furthermore, is there documentation of alternatives as proposed by the alleged "community members and planners?" This statement also falsely suggests that discussion of the La'au Point development and potential alternatives had begun as early as February 2004. Can MPL/EC provide documentation of these discussions?
 - **Suggested corrections** – change wording to: "In April 2005, MPL reported to the Land Use Committee on its review of 10 alternatives that had been generated by MPL."
- Page 144 – "plans proposed by the ALDC and others did not include any business case, revenue, or cost estimates that demonstrated a feasible alternative."
 - With the limited time and resources given the ALDC and its consultant, it was agreed to by the EC that the work of the consultant would be to: "outline possible models for alternatives for the conservation of La'au Point," and that this "assessment will include proposed deal strategies and possible structures for

completing the planning, design and conservation development process should any of the schematic alternatives be deemed acceptable for further development" (see attached report 10-20-05). The primary work of the ALDC was to identify potential alternatives. It was the responsibility of MPL and the EC to invest further energy into developing "business case, revenue, or cost estimates," which they failed to do.

- o **Suggested corrections** – change wording to: "alternative strategies proposed by the ALDC and others could not be further developed by MPL or the EC due to a limitation in time and therefore lack any business case, revenue, or cost estimates that demonstrate a feasible alternative."

Section 6.4 Other MPL Land Development Alternatives

- Page 150-154 – Table 7 and corresponding evaluations

- o These are the alternatives that were presented by MPL to the LUC in April 2005. These alternatives were engineered and evaluated by MPL without outside consultation or validation. The LUC did not question the validity or details of this report.
- o It is most difficult to make sense of these questionable evaluations without having the proposed La'au Point development evaluated by the same criteria and shown in the same format. No relevant evaluation of the La'au Point development is offered. How then, can these alternatives be measured?
- o **Suggested corrections** – make clear that the alternatives presented were generated internally by MPL. Additionally, provide an evaluation of the La'au Point Development using the same parameters and format used to evaluate the presented alternatives.

Section 6.5 ALDC Alternatives

- Page 155 – "Matt Yamashita, sought EC Board approval to delay a vote on the Plan and La'au Point "until a process for solidly incorporating potential alternatives into the Land Use Plan was seriously considered by the EC." Ultimately, the EC Board rejected this motion after review and consideration of ALDC's proposed alternatives..."

- o This statement is inaccurate. The EC Board rejected the motion WITHOUT review and consideration of the ALDC's proposed alternatives. The EC Board voted to approve the Plan in November 2005. The report from the ALDC consultant was received by the

ALDC only one-month prior and was not reported to the general EC Board prior to the November vote. The ALDC, in fact, submitted a memorandum to the EC Board on October 20, 2005 that stated the following: "The ALDC will deliver a complete report on the details of the NWLC (consultant) Report as well as strategies for moving forward once the current draft of the NWLC Report has been effectively assessed and revised." The point is that the EC Board did NOT consider delaying the vote based on review of proposed alternatives.

- o The EC's vote to approve the Plan, without consideration for alternatives, effectively dismantled the ALDC effort.

- o **Suggested corrections** – change wording to: "Ultimately, the EC Board rejected this motion and voted to approve the Plan without prior review and/or consideration of ALDC's proposed alternative strategies..."

- Page 155 -- 6.5.1 New "Town"

- o The New Town proposal was included in the ALDC consultant report, but was not recommended or supported by the ALDC (see attached "Memorandum 1-12-06") and, therefore, should not have been evaluated by MPL. This alternative should not be included in the EIS.

- o **Suggested corrections** – omit the "NewTown" section

- Page 156 -- 6.5.2 Purchase of La'au Point Parcel

- o The strategies outlined in both paragraph 1 and 2 of this section were not recommended or supported by the ALDC and should be omitted.
- o **Suggested corrections** – omit paragraph 1 and 2.

- Page 157 -- "...after an extensive 2-year community process, (MPL) does not desire to indicate a price for the parcel because of the many variables involved."

- o MPL has not been willing to share a price for the La'au Point parcel. This was a major obstacle to the ALDC when searching out alternative strategies related to the purchase of the property. Not having a profit estimate also makes it difficult to compare the La'au Point project to other potential economic engines.

Peter Nicholas/John Sabas
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 21, 2007
Page 7

To support my comments I have included with this letter two documents submitted to the EC board by the ALDC. The first document is titled: "Report to Ke Aupuni Lokahi Molokai EC Board: Update on New West Land Company Contract" submitted 10-20-05. This document gives proof to the timing and review issues that I have pointed out. The second document is a Memorandum to the Ke Aupuni Lokahi, Molokai EC dated 1-12-06. This document represents the ALDC's assessment of the alternatives consultant's report. It too testifies to the timing and review issues found in the DEIS and also gives reason for omitting the sections that I have suggested be omitted.

Finally, the January 12, 2006 Memorandum very clearly represents the ALDC's integrity in following through with its work as well as its clear vision that finding workable alternatives was possible and was ultimately the responsibility of the EC and MPL. The Memorandum states:

"...in order to realistically move forward in searching out potential purchasers, two commitments must be made. First, MPL must be willing to negotiate with the EC reasonable terms to keep the option open for an appropriate alternative to replace the current 200-lot development plan. Second, the purchase price, or an equation to determine a price that fairly addresses the many variables in a fluctuating market, must somehow be determined. Of course, as stated in the NWLC report and, as stated by the ALDC since the committee was first created, this purchase price must include the necessary funding needed for the upstart of Kaluakoi Hotel as well as for the Molokai Land Trust and a reasonable return for MPL.

The ALDC has accomplished much of what it set out to do. It has brought the question of alternatives to the table, it has researched potential alternatives, and it has found a concrete alternative plan. The plan, very simply, is to find a buyer to both purchase the property and "buy into" the greater vision for West Molokai. The challenge now is to identify and approach potential buyers and to keep the option of purchasing the property open and on realistic terms.

As MPL will only negotiate with the EC board, it is now the decision of the EC as to whether or not this effort is worth pursuing. Finally, should fair and realistic terms for moving forward be reached, members of the ALDC will remain committed to helping continue this work."

Neither the EC nor MPL has taken on the efforts recommended by the ALDC to keep the potential for alternatives alive. The ALDC, with its efforts and findings

Peter Nicholas/John Sabas
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 21, 2007
Page 8

having been given no due consideration, dissolved itself from the EC process early in 2006.

It concerns me greatly that the claims made in the DEIS to support alternative efforts are based on a such a high level of inaccuracy. The DEIS, more than simply leaving out important facts, contains critical inaccuracies and misrepresentations as I have pointed out in this letter.

I hope that my comments will be taken into consideration and that my suggestions be applied to the EIS.

Submitted By:


Matt N. Yamashita
PO Box 265
Kaunakakai, HI 96748

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salomonson
February 1, 2007
Page 1 – Attachment #1

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salomonson
February 1, 2007
Page 2 – Attachment #1

Update on New West Land Company Contract

The New West Land Company (consultant) was contracted in partnership by the EC and the Alternatives to La'au Development Committee (ALDC), with support from Na Pua Nohi Na'auao, to:

"outline 'possible models for alternatives' for the conservation of La'au Point, while meeting Molokai Properties Limited's (MPL) financial objectives, enabling the 'Community-Based Master Plan for Molokai Ranch' to be implemented."

The work was to specifically involve the:

"strategic assessment of conceptual conservation-based development alternatives that incorporate existing cultural and ecological criteria and proposed financial return to MPL and to the proposed community entities of a Land Trust and the possibility of a Community Development Corporation."

Consultant's efforts included 3 days of guided on-island site visits, a community meeting, two intensive working sessions with a core group defined by the EC and ALDC, a meeting with the President of MPL, and three additional weeks to:

"prepare a final report containing descriptions (plans, three-dimensional sketch representation of critical components) of the selected alternatives, and schematic economic analysis/assessment of each. This assessment will include proposed deal strategies and possible structures for completing the planning, design and conservation development process should any of the schematic alternatives be deemed acceptable for further development."

The first draft of the final document (NWLC Report) was delivered on October 8th as specified in the contract. Lead consultant, Clark Stevens, arranged an unscheduled trip to personally present the NWLC Report to available members of the EC and ALDC on the delivery date.

Since the initial presentation and delivery of the NWLC Report the ALDC has been tasked with assessing the quality and accuracy of the report. This assessment is a process of measuring the consultant's effectiveness in incorporating the work of the LUC and input from members of the EC, ALDC, MPL and community into the alternative models to create strategies that are

Alternatives to La'au Development Committee (ALDC)
Report to Ke Aupuni, Lokahi Molokai EC Board
Update on New West Land Company Contract
Prepared By: Matt Yamashita

October 20, 2005

Note: Due to a limitation in time, the following report has not been reviewed by members of the ALDC and is being submitted in "good faith" by ALDC co-chair, Matt Yamashita. This is an "update" report, not a final.

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salimonson
February 1, 2007
Page 3 -- Attachment #1

appropriate to the Land Use Plan and the intentions of the ALDC. It also involves discussions on how the NWLC Report can be used as a tool moving forward.

Though still in the assessment process, the ALDC has found that the consultant has, for the most part, delivered a useful document that meets the general parameters and outcomes outlined in the contract. It should be noted that the consultant ultimately determined that "the prospect of purchase of La'au... became the primary alternative to the development of La'au." While some of the specific strategies for reaching this possible alternative model are not supported by the ALDC, several other key strategies have very strong support from the group.

In the coming weeks the ALDC will work to revise the NWLC Report to reflect the results of the current assessment process. Already it can be expected that this will involve some significant alterations to the current draft. The ALDC will also be tasked with developing a process for moving forward in pursuing, validating, gaining support for and further researching the specific strategies in the NWLC Report that are accepted by the ALDC. The consultant has made a commitment to assist in these efforts.

Finally, the negotiation of an agreement that effectively "cements" the consideration of potential alternatives into the implementation process of the Land Use Plan must be pursued and should be seen as being of the highest importance for continuing the alternatives effort. Specifically guaranteeing a place for the potential purchase of the La'au property into this ongoing process is key. Achieving such an agreement will depend on MPL's willingness to entertain offers from prospective buyers working with the ALDC/EC and that are committed to upholding the integrity of the Land Use Plan (excluding the La'au Development component). Or as the NWLC Report states:

"If MPL were willing to entertain a sale, on what terms would that sale be conducted or negotiated?"

It is probably the EC's task, should it be willing, to engage MPL on this matter.

The ALDC will deliver a complete report on the details of the NWLC Report as well as strategies for moving forward once the current draft of the NWLC Report has been effectively assessed and revised.

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salimonson
February 1, 2007
Page 1 -- Attachment #2
MEMORANDUM

TO: *Ke Aupuni Lokahi*, Molokai EC, Board of Directors
FROM: Alternative to La'au Development Committee (ALDC)
RE: New West Land Company Report to the ALDC/EC and Next Steps

January 12, 2006

This memorandum reviews the ALDC's final assessment of the New West Land Company's (NWLC) alternatives report as delivered to the ALDC and EC. It also addresses the current stance of the ALDC in moving forward in the search for alternatives to the development of La'au Point.

The ALDC feels that the NWLC report was true to the deliverable outlined in the contract with NWLC. Not all of the strategies outlined in the report, however, are supported by the ALDC as desirable strategies in moving forward with the search for alternatives. Following is a description of those elements that are supported.

The ALDC supports the purchase of the La'au Point property, in full or in part, by a "single" purchaser, meaning a third party, individual or entity. The ALDC believes that potential purchasers should match one or a mix of the following profiles:

- (1) preservation or conservation motivated (interested in protecting and improving the natural and cultural elements of the property);
- (2) motivated by federal and state tax mitigation potential (interested in receiving tax breaks for committing the property, or portions of, to a land trust or to land trust easements);
- (3) interested in conservation development (ideally 1 to 50 subdivided lots placed, designed, and marketed with true conservation based planning; members of the ALDC also feel that any development at a lesser scale and further removed from the coast than the current plan for 200 lots would be worth considering); and/or
- (4) seeking a land base for educational uses.

Most importantly, all potential buyers must exhibit a sincere intention for working with the Molokai Land Trust in the protection and preservation of resources located on and around the property as identified in the Community Based Molokai Ranch Master Land Use Plan and in a manner that is in line with the greater "vision" set forth in the Land Use Plan. Furthermore, any form of proposed alternative development on the property should be put to a process of community input and review.

Peter Nicholas/Harold Edwards
Thomas Witten
Anthony Ching
Genevieve Salmonson
February 1, 2007

Page 2 – Attachment #2

The ALDC would prefer to see a purely philanthropic purchaser buy the property and commit it entirely to preservation. The conservation development approach, however, mixed with the tax mitigation incentive, will likely be the most attractive to potential purchasers, as it provides for tax break opportunities through conservation, as well as a level of financial return.

Conservation development planning and design approaches are explored in the NWLC report via a series of exhibits. The proposed sites used in these exhibits are strictly an exercise in placement methods, as an example of what would constitute “true conservation based planning.” Therefore, while the ALDC supports the conservation development approach, it is not claiming that the specific exercises in the NWLC report represent the best, or even feasible examples. The reasoning and methodology behind these exhibits, however, are supported by the ALDC.

Finally, in order to realistically move forward in searching out potential purchasers, two commitments must be made. **First, MPL must be willing to negotiate with the EC reasonable terms to keep the option open for an appropriate alternative to replace the current 200-lot development plan. Second, the purchase price, or an equation to determine a price that fairly addresses the many variables in a fluctuating market, must somehow be determined.** Of course, as stated in the NWLC report and, as stated by the ALDC since the committee was first created, this purchase price must include the necessary funding needed for the upstart of Kaluakoi Hotel as well as for the Molokai Land Trust and a reasonable return for MPL.

The ALDC has accomplished much of what it set out to do. It has brought the question of alternatives to the table, it has researched potential alternatives, and it has found a concrete alternative plan. The plan, very simply, is to find a buyer to both purchase the property and “buy into” the greater vision for West Molokai. **The challenge now is to identify and approach potential buyers and to keep the option of purchasing the property open and on realistic terms.**

As MPL will only negotiate with the EC board, **it is now the decision of the EC as to whether or not this effort is worth pursuing.** Finally, should fair and realistic terms for moving forward be reached, members of the ALDC will remain committed to helping continue this work.



November 1, 2007

Matt Yamashita
P.O. Box 265
Kaunakakai, Hawai'i 96748

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. Yamashita:

Thank you for letter dated February 21, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

1. Section 6.0 "Alternatives to the Proposed Action" ¶Page 144 - "MPL in conjunction with the EC... examined a range of alternatives to the proposed Lā'au Point development." ¶This is misleading and suggests that the EC was involved in generating alternatives. The only alternatives presented during the entire process, prior to the Land Use Committee (LUC) and EC votes, were presented to the LUC and were generated by MPL as found between pages 150-154 of the EIS. No hard questions were asked and no follow-up work or evaluation was done by the LUC. MPL's presentation was accepted "as-is." This is problematic as the "community" was never invited to participate in the search for or evaluation of alternatives. ¶Suggested corrections — change wording to: "MPL examined a set of internally generated alternatives to the proposed Lā'au Point development."

Response: MPL does not believe it needs to change or correct its Draft EIS as proposed for the reasons set out below.

The records of the committee meetings of Project #47 will show that the first alternative MPL was asked to review was raised by DeGray Vanderbilt in late 2003.

Subsequently, at least one alternative was raised by Professor Luciano Minerbi, professor of urban planning from UH Mānoa, who asked MPL to review of number of alternatives for view lots between Maunaloa and Lā'au Point. This alternative was proposed during a visit to Molokai by Professor Minerbi with his students to complete work on the Kaluako'i Sand Dunes project. MPL still retains the rough drawings done by Professor Minerbi of his proposal which led to three separate alternative evaluations.

MPL believes that the time and effort it put into evaluating alternatives meant that Land Use Committee members and EC members believed MPL had done a thorough job. This is also supported by the fact that no ALDC member ever questioned MPL as to its alternatives analysis detail at any meeting of the Land Use Committee, nor did the ALDC seek clarification from MPL or any of its alternatives in the document it supplied to the ALDC in April 2005.

MPL has further analyzed alternatives subsequent to those meetings. To reflect this information in the Final EIS, as well as to address other questions and concerns regarding alternatives,

Section 6.0 (Alternatives) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 6.0 (Alternatives)."

2. Page 144 — "The (ALDC) and an outside planning consultant were funded and sponsored by the EC to allow the community to address potential alternatives to La'au Point. While there was a Tourism Committee, Economics Committee, Environment Committee, & Cultural Committee — no Committee was formed to look at the La'au development and other potential economic engines." ¶Again, this is misleading. What needs clarification is that the ALDC was formed by frustrated members of the community who had to petition the EC for the ALDC to become a part of the "community" process. ¶The ALDC was not formed until November of 2004. EC funding to support the work of the ALDC was not secured until June 2006.

Response: Negotiations for funding took many months to complete and both the EC and the ALDC worked closely for a considerable period of time prior to June 2005, not June 2006, to obtain the necessary funds to hire a consultant.

3. The reason the ALDC formed was because no action was being taken by the EC to allow the community to address potential alternatives to La'au Point. While there was a Tourism Committee, Economics Committee, Environment Committee, & Cultural Committee — no Committee was formed to look at the La'au development and other potential economic engines. In fact, the La'au Point proposal was not released for discussion until all of these other committees had finished their work.

Response: This latter statement on the release of La'au Point for discussion is inaccurate. MPL was upfront about its needs from the very beginning as per Peter Nicholas' speech to the community meeting with the Conservation Fund on January 28/29, 2003. 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)."

4. The point is that the EIS suggests that the search for alternatives was a fundamental part of the process, when the ALDC was, in fact, forced into the process by concerned community members and began its work late in the planning process.

Response: MPL asserts and believes it has given credibility to its claims by its answers that follow this letter, that it made a credible attempt over a long period to look at alternatives and respond to alternatives suggested by others.

5. Suggested corrections — include the provided background giving insight to the formation of the ALDC as well as a timeline of the ALDC's efforts.

Response: In response to your comment, in the Final EIS Section 6.5 will be revised as follows:

In response to his comment letter on the Draft EIS dated February 21, 2007, we have incorporated the following statements by Mr. Yamashita:

"...the ALDC was formed by frustrated members of the community who had to petition the EC for the ALDC to become a part of the "community" process."

"The ALDC was not formed until November of 2004. EC funding to support the work of the ALDC was not secured until June 2006!"

"The reason the ALDC formed was because no action was being taken by the EC to allow the community to address potential alternatives to La'au Point. While there was a Tourism Committee, Economics Committee, Environment Committee, & Cultural Committee — no Committee was formed to look at the La'au development and other potential economic engines."

6. Page 144 — "In April 2005, MPL reported to the Land Use Committee and the ALDC on its review of 10 alternatives that had been proposed over the previous 14 months by a variety of community members and planners, including alternatives proposed by the ALDC planning consultant." ¶This statement is false. ¶MPL claims to have reported in April 2005 its review of "alternatives proposed by the ALDC planning consultant" when the ALDC consultant did not deliver his report until October of 2005. MPL never reported a review of the planning consultant's work to the ALDC. Did MPL report a review of this work to the EC? If so, when?

Response: MPL acknowledges that the wording of this paragraph is inaccurate in terms of when it evaluated the work of the ALDC planning consultant, Clark Stevens. In the Final EIS Section 6.0 will be revised as follows:

The Alternative to La'au Development Committee (ALDC) and an outside planning consultant were funded and sponsored by the EC to find alternatives to the La'au Point development and review all the alternatives from the community and off-island. Clark Stevens of New West Land Company was hired based on his expertise in conservation planning. For all proposed alternatives, MPL analyzed the proposals using financial models to ensure it was not ignoring any feasible alternative. In April 2005, MPL reported to the Land Use Committee and the ALDC on its review of 10 alternatives that had been proposed over the previous 14 months by a variety of community members and planners, including alternatives proposed by the ALDC planning consultant. Later, after the ALDC consultant delivered his report to the EC, MPL evaluated each of the consultant's recommendations and included evaluations in the Draft EIS. In all cases, the alternative development plans proposed by the ALDC and others did not include any business case, revenue, or cost estimates that demonstrated a feasible alternative (see Table 7 in Section 6.4).

7. The ALDC alternatives report was not given consideration prior to the EC's vote to approve the Master Plan in November of 2005.

Response: The ALDC did not do a report on recommendations prior to the vote, so no report could have been given consideration. The ALDC was aware well in advance of the EC meeting that a vote was being called that day, you were a Land Use Committee member and were therefore fully apprised in advance of the decision-making timeline.

8. The statement "alternatives that had been proposed over the previous 14 months by a variety of community members and planners" offers no validity. How could well-developed alternatives have been proposed 14 months prior to April 2005, when the ALDC was not formed until November 2004 (less than 6-months prior)? Furthermore, is there documentation of alternatives as proposed by the alleged "community members and planners?" This statement also falsely suggests that discussion of the La'au Point development and potential alternatives had begun as early as February 2004. Can MPL/EC provide documentation of these discussions?

Response: The formation of the ALDC was subsequent to MPL beginning to review alternatives. The formation of the ALDC did not lead to MPL suddenly beginning the process of reviewing alternatives to its Lā'au proposal.

Records of the committee meetings of Project #47 would show that the first alternative MPL was asked to review was raised by DeGray Vanderbit in late 2003.

Subsequently, at least one alternative was raised by Professor Luciano Minerbi, professor of urban planning from UH Mānoa who asked MPL to review a number of alternatives for view lots between Maunaloa and Lā'au Point. This alternative was proposed during a visit to Molokai by Professor Minerbi with his students to complete work on the Kaluako'i Sand Dunes project. MPL still retains the rough drawings done by Professor Minerbi of his proposal which led to three separate alternative evaluations.

9. **Suggested corrections** — change wording to: "In April 2005, MPL reported to the Land Use Committee on its review of 10 alternatives that had been generated by MPL."

Response: In light of the answers to these questions as listed above, MPL sees no need to change its statements on the examination of alternatives in the Draft EIS.

10. **Page 144** — "plans proposed by the ALDC and others did not include any business case, revenue, or cost estimates that demonstrated a feasible alternative." ¶With the limited time and resources given the ALDC and its consultant, it was agreed to by the EC that the work of the consultant would be to: "outline possible models for alternatives" for the conservation of Lā'au Point," and that this "assessment will include proposed deal strategies and possible structures for completing the planning, design and conservation development process should any of the schematic alternatives be deemed acceptable for further development" (see attached report 10-20-05). The primary work of the ALDC was to identify potential alternatives. It was the responsibility of MPL and the EC to invest further energy into developing "business case, revenue, or cost estimates," which they failed to do. ¶Suggested corrections — change wording to: "alternative strategies proposed by the ALDC and others could not be further developed by MPL or the EC due to a limitation in time and therefore lack any business case! revenue! or cost estimates that demonstrate a feasible alternative."

Response: It was the ALDC's assertion that it was the responsibility of MPL and the ALDC to develop a business case, revenue, and cost estimates for potential alternate strategies proposed by the ALDC.

While neither the EC nor MPL accepted that responsibility, MPL evaluated some alternatives proposed by ALDC members and consultants, and those alternatives were included in the Draft EIS.

MPL stands by its statement in the Draft EIS as being accurate and notes that the facts of the matter are not being questioned. It is not true that alternatives proposed by the ALDC and others could not be evaluated due to limitations of time. In November 2005, there were no alternatives from the ALDC to evaluate, although MPL took it on its own responsibility to review all of Clark Stevens' recommendations and reported on those in the EIS.

11. **Section 6.4 Other MPL Land Development Alternatives** ¶Page 150-1 54 — Table 7 and corresponding evaluations ¶These are the alternatives that were presented by MPL to the LUG in April 2005. These alternatives were engineered and evaluated by MPL without outside consultation or validation. The LUG did not question the validity or details of this report. ¶It is most difficult to make sense of these questionable evaluations without having the proposed Lā'au Point development evaluated by the same criteria and shown in the same format. No relevant evaluation of the Lā'au Point development is offered. How then, can these alternatives be measured? ¶Suggested corrections — make clear that the alternatives presented were generated internally by MPL. Additionally, provide an evaluation of the Lā'au Point Development using the same parameters and format used to evaluate the presented alternatives.

Response: MPL believes it has stated the case accurately. Some of the alternatives evaluated by MPL were proposed by community members throughout the two-year process and some were alternatives that MPL believed it needed to evaluate itself in order to establish whether there were alternatives to its Lā'au proposal.

The alternatives were measured against the Lā'au proposal in terms of the funds the alternative proposal generated, the water it would use and the proposed population increases.

- For example it was made clear that if an alternative did not provide the funds that were needed to re-open the Kaluako'i Hotel, and fund its initial losses, then it could not be considered a feasible alternative.
- If it required more potable drinking water than MPL was able to propose from the Kākalahale Well or more water than its agreed Water Plan contained within the draft EIS document, then it and could not be considered a feasible alternative.
- If it proposed population increases of more than the Lā'au development, and was rejected as a less feasible alternative.

12. **Section 6.5 ALDC Alternatives** ¶Page 155 — "Matt Yamashita, sought EC Board approval to delay a vote on the Plan and Lā'au Point "until a process for solidly incorporating potential alternatives into the Land Use Plan was seriously considered by the EC." Ultimately, the EC Board rejected this motion after review and consideration of ALDC's proposed alternatives. ¶This statement is inaccurate. The EC Board rejected the motion without review and consideration of the ALDC's proposed alternatives. The EC Board voted to approve the Plan in November 2005. The report from the ALDC consultant was received by the ALDC only one-month prior and was not reported to the general EC Board prior to the November vote. The ALDC, in fact, submitted a memorandum to the EC Board on October 20, 2005 that stated the following: "The ALDC will deliver a complete report on the details of the NWLC (consultant) Report as well as strategies for moving forward once the current draft of the NWLC Report has been effectively assessed and revised." ¶The point is that the EC Board did NOT consider delaying the vote based on review of proposed alternatives. ¶The EC's vote to approve the Plan, without consideration for alternatives, effectively dismantled the ALDC effort. ¶Suggested corrections — change wording to: "Ultimately, the EC Board rejected this motion and voted to approve the Plan without prior review and/or consideration of ALDC's proposed alternative strategies..."

Response: The ALDC opposed the development and all of their actions at both the Land Use Committee decision meeting and the meeting of the EC that voted on the Master Plan, were aimed at delaying any recommendation from the EC. The ALDC did not come up with a

Matt Yamashita
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 6 of 8

recommendation at any stage in the year of deliberations and after working with many parties, despite the Clark Stevens report and despite meeting for almost a year on potential alternatives.

Clark Stevens made concrete recommendations, but factions within the ALDC, all of whom had differing views ranging between "no development" and "limited development" for the La'au parcel, prevented the organization from having a united front on any recommendation during that period.

EC representatives attended most ALDC meetings once the EC had agreed to fund the Stevens study, and they were convinced the ALDC would be unlikely to form a united front on any alternative.

But, most critically, the ALDC could give no timeframe or firm future date to the EC for a decision on "effectively assessing and revising the Clark Stevens report."

13. Page 155 — 6.5.1 New "Town" ¶The New Town proposal was included in the ALDC consultant report, but was not recommended or supported by the ALDC (see attached "Memorandum 1-12-06") and, therefore, should not have been evaluated by MPL. This alternative should not be included in the EIS. ¶Suggested corrections — omit the "New Town" section

Response: Whether or not the ALDC supported the recommendation for a "new town," it was one of the suggestions made by Clark Stevens in his report, and MPL believed each of his proposals was worthy of some analysis. His three proposals, the "new town" proposal, the proposal to find a "conservation buyer" for La'au Point, and his proposal to site 50 "view-shed lots" at La'au Point were all evaluated.

14. Page 156 — 6.5.2 Purchase of La'au Point Parcel ¶The strategies outlined in both paragraph 1 and 2 of this section were not recommended or supported by the ALDC and should be omitted. ¶Suggested corrections — omit paragraph 1 and 2.

Response: The Draft EIS has disclosed all strategies, recommendations and alternatives considered and either accepted or rejected, as required by the EIS law (HRS 343). These were recommendations from a paid consultant of the ALDC. MPL did not state they were supported by the ALDC.

15. Page 157 — "...after an extensive 2-year community process, (MPL) does not desire to indicate a price for the parcel because of the many variables involved." ¶MPL has not been willing to share a price for the La'au Point parcel. This was a major obstacle to the ALDC when searching out alternative strategies related to the purchase of the property. Not having a profit estimate also makes it difficult to compare the La'au Point project to other potential economic engines.

Response: The ALDC never sought to communicate or meet with MPL on a purchase of the La'au Point parcel, choosing to operate independently. The ALDC also never sought to involve anyone with an economics or business background on its team who was able to evaluate all the information that MPL had made public concerning the economics finances (is a better word I think) of the development and its own operations. The ALDC made repeated requests that MPL

Matt Yamashita
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 7 of 8

and the EC provide it with sensitive company information which MPL could not circulate to the general public.

MPL made it quite clear to the ALDC that it would continue to work with the EC on finding a buyer for the La'au Point parcel and would provide as much information as was needed to make the evaluation once a bona fide potential buyer was identified.

MPL believes the information supplied in the Draft EIS is therefore factual.

16. To support my comments I have included with this letter two documents submitted to the EC board by the ALDC. The first document is titled: "Report to Ke Aupuni, Lokahi, Molokai, EC Board: Update on New West Land Company Contract" submitted 10-20-05. This document gives proof to the timing and review issues that I have pointed out. The second document is a Memorandum to the Ke Aupuni, Lokahi, Molokai, EC dated 1-12-06. This document represents the ALDC's assessment of the alternatives consultant's report. It too testifies to the timing and review issues found in the DEIS and also gives reason for omitting the sections that I have suggested be omitted.

Response: Neither document categorically indicates whether all those who were members of the ALDC between November 2004 and the EC vote support, wholeheartedly, one particular recommendation and that all members agree with that recommendation. By the time the January 12, 2006 memorandum was delivered to the EC, it was unclear who still remained a member of the ALDC as its membership and attendance at its irregularly scheduled meetings had dropped. The EC could also not be sure whether any recommendation would be supported by those who were members over that period of time.

17. Finally, the January 12, 2006 Memorandum very clearly represents the ALDC's integrity in following through with its work as well as its clear vision that finding workable alternatives was possible and was ultimately the responsibility of the EC and MPL... ¶Neither the EC nor MPL has taken on the efforts recommended by the ALDC to keep the potential for alternatives alive. The ALDC, with its efforts and findings having been given no due consideration, dissolved itself from the EC process early in 2006.

Response: As stated in the Draft EIS, MPL in conjunction with the EC continues to be very open to finding a purchaser for the La'au Point parcel and has had continuing discussions with EC members who worked with the ALDC during the consultancy arrangement with Clark Stevens.

It is incorrect to say that neither MPL nor the EC has kept the efforts of the ALDC alive. MPL has discussed a purchase of La'au Point strategy in detail with the Conservation Fund, with one potential purchaser and with a non-profit entity. It will continue to examine options for this alternative, keeping faith with a request from EC members.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.

Matt Yamashita
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 8 of 8

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Attachments:
Revised Section 6.0 (Alternatives)
Revised Section 2.4 (Community Meetings and Involvement)

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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continue this proposal because it will hurt the people who care about their native land.

Sincerely,


Melody Villa

Melody Villa
91-1032 Ho'omaka St.
Ewa Beach, HI 96706

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
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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. Nicholas:

This letter serves as comment on the Draft Environmental Impact Statement (DEIS) for the proposed La'au Point development project on the island of Molokai, Hawaii. Through my own knowledge and understanding, I do not agree with this project. I feel like this is one the few the things the Hawaiian have to keep. Most of the people in Molokai are native Hawaiians and if houses are going to be build there of course all the rich people will take over. Then after that, the Hawaiians will end up with nothing. I am not Hawaiian but I feel like the Hawaiians have the right to refuse and hear their opinions about it. Most of them do not agree with this project and so do I. Therefore, they should not



Ms. Melody Vila
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

November 1, 2007

Melody Vila
91-1032 Ho'omaka Street
Ewa Beach, Hawai'i 96706

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Vila:

Thank you for your letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comment.

1. *Most of the people in Molokai are native Hawaiians and if houses are going to be built there of course all the rich people will take over. Then after that, the Hawaiians will end up with nothing. I am not Hawaiian but I feel like the Hawaiians have the right to refuse and hear their opinions about it. Most of them do not agree with this project and so do I. Therefore, they should not continue this proposal because it will hurt the people who care about their native land.*

Response: Your comments imply that the Lā'au Point Project will cause Hawaiians to lose their land and culture because "all the rich people will take over." While we understand your concern, we note that the Lā'au Point development will actually help the Molokai's community, including Hawaiians, gain control over much of Molokai's resources.

If the Lā'au Point project is carried out, it will allow the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) to move forward. As previously discussed in Section 2.1.7 of the Draft EIS, the Master Plan will protect 55,000 acres, or 85 percent of Molokai Ranch's land holdings, from development in perpetuity. The Master Plan calls for include the donation of 26,200 acres to a Molokai Land Trust and Community Development Corporation (CDC), restrictive easements on another 24,000 acres of Molokai Ranch land, preservation of cultural and archaeological sites, increased subsistence gathering access, and permanent parks and open space.

The Molokai Land Trust will work to protect historic and cultural sites, preserve natural and environmental resources; and protect subsistence gathering. The CDC will work to develop affordable housing, expand educational opportunities, and assist the Land Trust with project funding. Further, the Master Plan includes the reopening of Kahuako'i Hotel and upgrading the golf course, thereby bringing these jobs back to Molokai'i.

Therefore, if Lā'au Point is carried out, and the Master Plan moves forward, the Molokai community will have control over these lands, cultural and environmental resources and funding sources. Hawaiians and other Molokai residents will be able to plan for the future of these resources.

Appendix A of the Draft EIS contains the Master Plan in its entirety.

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 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

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OEQC

From: Mike Pate [positivpate@gmail.com]
Sent: Wednesday, February 07, 2007 10:06 AM
To: OEQC@doh.hawaii.gov
Subject: Attn Denise Antolini (in SUPPORT of the development of Lā'au area)

Dear Ms. Antolini,

We have watched the process and news surrounding the Lā'au development with growing frustration. We want to add our voice of SUPPORT to Molokai Ranches planned Lā'au development. We own a condo on the west end in Paniolo Hale, and we strongly believe our island needs this development to provide a better future for all of Molokai. It is our conviction that people are mistaken to think things will be better simply by NOT progressing.

We believe this project is a win/win and will improve MUCH NEEDED services and quality of life without being drastic or damaging. We truly need the hope of better opportunities on Molokai and this development is a strong step in the right direction.

Thanks for reading. We wanted to make sure those in favor of this project are heard.

Sincerely,

Michael and Michele Pate
positivpate@gmail.com

November 1, 2007

Michael and Michele Pate
[no address provided]
Email: positivpate@gmail.com

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. and Ms. Pate:

Thank you for your email dated February 7, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We appreciate your support for this project.

Thank you again for participating in the Draft EIS process. Your letter will be included in the Final EIS.

Sincerely,

Peter Nicholas
President and CEO
Molokai Properties Limited

cc: Anthony Chung, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

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February 23, 2007

PBR Hawaii
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Molokai Properties Limited
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Attention: Peter Nicholas and John Sabas
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PO Box 2359
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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. Nicholas:

This letter serves as comment on the Draft Environmental Impact Statement (DEIS) for the proposed La'au Point development project on the island of Molokai, Hawaii. These comments are a response to the Cultural Impact Assessment (CIA), which focuses on subsistence and the likely impact of the development on the Molokai community. Davianna McGregor concludes the CIA with a question: "are [the] measures provided within the Community-Based Master Land Use Plan sufficient to protect these resources for future generations?" (CIA, 24). Although they are well intentioned, it is most probable that they will not, and that these resources will be lost to future generations. As a

community member states, "the invasions of hundreds of new homes coupled with outsiders and their material commodities can only diminish the sanctity that La'au currently provides" (CIA, 103).

The Threat to Subsistence

Subsistence is essential to the community's way of life. (CIA, 33-34) La'au Point provides supplemental income, and contributes to "the persistence of traditional Hawaiian cultural values, customs, and practices" (CIA, 37). The area has historic and cultural value: the community feels its mana (spiritual power), sees the heiau (temple) built by their ancestors, and considers it wahi kapu (sacred place). This plan will effectively bring an end to subsistence fishing, hunting and gathering practices, and it will restrict access to cultural resources and practices.

Although the plan proposes various measures that would curb encroachment into traditional subsistence practices, the impact of this development will be too large to be effectively prevented. As far back as 1993 the community recognized the need to reverse the trend of overharvesting and resource consumption. (CIA, 38) Developing the area is counterproductive to conservation and rehabilitation efforts. McGregor predicts that residents of the planned development could potentially "close off hunting in the southwest corner of Molokai" (CIA, 16). Local fishermen will find that outside fishermen who "do not plan for the future" will "fish out the grounds of lobster and fish" (CIA, 15). In addition to the environmental damage that the newcomers will cause, community members were concerned that access to the point will become more difficult and/or restricted. Although MPL guarantees that the Covenants, Conditions and Restrictions (CC&Rs) will be followed, and access will not be restricted, McGregor states that these assurances have not been upheld in the past. "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" (CIA, 15). This is evident to a community member who explains, "Others waltz right in and don't feel the pain. We are the people of poverty who will always be kept out" (CIA, 103).

Is Development Necessary, Beneficial and Desired?

By traditional Western standards the people of Molokai are poor. Subsistence, which supplements the local income, is not recognized as form of "capital accumulation."¹ Tourism is promoted as the answer to. But is tourism and development necessary or beneficial for the community? An informant for McGregor study asks "The development will provide jobs, but for how long?" (CIA, 103) I would add to that, what is the quantity and quality of the jobs envisioned? Recent studies show that the average family in Oahu, Maui and the

¹ McGregor, Davianna. *Na Kua'aina: Living Hawaiian Culture*. Honolulu: University of Hawaii Press, 2007, pp 247.



November 1, 2007

Paulette Rodriguez Lopez,
1750 Kalaikaua #1711
Honolulu, Hawaii 96826

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Lopez:

Thank you for your letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We acknowledge your comments about the Cultural Impact Assessment and offer the following responses.

The Threat to Subsistence

We acknowledge your comments about the loss of subsistence; however, we respectfully disagree. As discussed in Section 2.3.7, 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 (SAMP) will be managed by the Land Trust and the homeowners, and enforced by the Land Trust. The SAMP will be appended to the Final EIS.

Is Development Necessary, Beneficial and Desired?

We acknowledge your comments about tourism development, and respectfully disagree with your viewpoint. As discussed in Sections 2.1.7 and 4.8.3, the community supports the re-opening of the Kahaoko'i Hotel as a mid-range hotel. Funding for the Kahaoko'i Hotel and Golf Course renovations will come from sales of the Lā'au Point rural-residential lots. The *Moloka'i Responsible Tourism Initiative Report (2006)* indicates: "Kahaoko'i resort development is essential to the island's tourism economy" (p. 21). Jobs will be created at the resort and elsewhere. By outsourcing various hotel functions such as laundry, gift shop, beach shack and spa, and by committing to use local produce, small business opportunities will also be created for the community.

These tourism facilities will not infringe upon the traditional, social, economic, and environmental qualities of the island. Currently, many Ranch employees enjoy a subsistence lifestyle in addition to their "economic" job.

We acknowledge your comments about the EC election; however, we respectfully disagree with your conclusion that there is a direct correlation between the election results and the project. The EC Board election was not a mandate for the Lā'au Point project. The election held on January 31, 2007 was for two board members for the EC Governance Board. While some candidates ran on platforms that included stances on the proposed development at Lā'au Point, the proposed

Big Island must earn around \$50,000 to be self-sufficient.² This is a result of development strategies that focus on tourism, which tends to inflate living expenses. If what has occurred in other islands materializes in Molokai, the result will be increased costs of living and a widening gap between the rich and the poor. Rather than helping the community become self-sufficient, this development strategy put it on the path on economic dependency.

Alternatively, as Davianna McGregor describes in *Na Kua'aina* "Through community based efforts, residents organized to successfully stave off tourism development while promoting values related to community and family integrity. Subsistence and other community-based endeavors were considered the forces that bound the social elements necessary for cultural perpetuation together. Subsistence was not a replacement economy but a tradition that survived after macroeconomic strategies (i.e., plantations and ranches) failed."³ Subsistence has kept the island clean, peaceful, quiet, and relatively crime and traffic free, precisely what the residents want to promote and maintain.

Last month the Molokai Enterprise Community elected Bridget Ann Mowat and Leila Stone, with roughly 66% of the vote, in an election with candidates and a voter turnout that "duodecaples" last year's election.⁴ Mowat and Stone ran with an anti-development platform. This is a resounding message that the community does not favor development.

I hope my comments can be of some use. Thank you for your time and consideration.

Sincerely,


Paulette Rodriguez Lopez

² Vorsino, Mary. "33% in Isles not Self-Sufficient." *Honolulu Advertiser*. Feb. 3 2007.

³ Id. 248

⁴ Purtzer, Brenan. "Mandate: Bridget Mowat and Leila Stone win Molokai EC Election by solid margin." *Molokai Times*. Jan. 31 2007

<<http://www.molokaifumes.com/articles/7131225346.asp>>

Ms. Paulette Rodriguez Lopez
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 3

Ms. Paulette Rodriguez Lopez
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 3 of 3

development at La'au Point is not a project of the EC. The EC facilitated the community-based planning process, and later voted to support the resultant 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; 4. Strategic Vision for Change.

As a Hawai'i nonprofit corporation and a 501(c)3 public charity, the EC is legally obligated to act within its defined charitable purpose. The EC Board of Directors, however, has no regulatory control over future developments.

On Jan. 31, 2007 1,284 voters turned out for the 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 Molokai residents over 18 (2000 Census - Molokai population over 18 yrs of age is 5,015.) Bridget Mowat and Leila Stone, who won the two seats and campaigned on an 'Anti-La'au' platform received a combined 1,683 votes, or 65.5%, equivalent to 841.5 voters. 841.5 voters represent only 16.8% of Molokai'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 La'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 La'au Point. The EC election was for Board Directors that have no such regulatory power.

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 Chung, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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Periela Penniman
P.O. Box 240293, Honolulu, HI 96824

February 23, 2006

PBR Hawaii
1001 Bishop Street
ASB Tower, Suite 650
Honolulu, HI 96813
Attention: Thomas Witten
Telephone: (808) 521-5631
Fax: (808) 523-1402

Dear Mr. Witten:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) prepared for La'au Point, West Moloka'i, Moloka'i, Hawaii.

I am concerned about the impact this development will have on La'au Point. The coastal waters there are some of the most pristine in the Hawaiian Islands and full of marine life. A study completed by Decision Analysts Hawaii called *An Economic Development Strategy and Implementation Program for Moloka'i* concluded that "the wide reef that fringes the southern shore of Moloka'i supported extensive subsistence fisheries, and shoreline fishponds were used to age and fatten several species." We can see the monk seals are definitely supported by the marine life in this area since the seals are much larger and healthier than ones found on the beaches of surrounding islands. Constructing a new development at La'au Point will create unavoidable drainage and runoff into the ocean that will smother the offshore reefs and inevitably impact the marine life that is thriving there.

Another concern I have about the development at La'au Point is clearly laid out in section 4.2 of the DEIS in the Cultural Impact Assessment which states "A large part of the significance of the La'au Point area is that it is raw and untouched. It is so isolated that most of the residents of Moloka'i may have never been there and may have no direct experience with the place. This factor gives La'au an almost mythical quality. La'au Point has become an icon of what Moloka'i represents -- a rural stronghold and reserve of Native Hawaiian culture, a cultural kipuka. If Moloka'i is 'The Last Hawaiian Island' then La'au is one of the last untouched Hawaiian places on 'The Last Hawaiian Island.'"

Protecting La'au Point is therefore not just protecting the animal life that thrives there, but also the Hawaiian culture. Another study published as the *Moloka'i Data Book: Community Values and Energy Development* indicated that the "preferred way of life on Moloka'i" was closely associated with rural living, Hawaiian culture, slow pace,

Mr. Witten
February 23, 2006
Page 2

everybody knowing everybody, family togetherness, and living off the land. Tourism, development, and higher prices were in consistent with the preferred way of life.

That is why I would like to see La'au Point remain untouched and undisturbed. Many areas on Moloka'i are already in the process of being developed, so we should protect the few pristine places left in the Hawaiian Islands.

Thank you for your consideration in this matter.

Sincerely,


Periela Penniman

cc: Peter Nicholas and John Sabas, Molokai Properties Limited
Anthony Ching, State Land Use Commission
Office of Environmental Quality Control

Ms. Peniela Penniman
SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 2 of 2

Sincerely,



Peter Nicholas
President and CEO
Molokai Properties Limited

Cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Humi, Maui Planning Department
Thomas S. Witten, PBR HAWAII

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November 1, 2007

Peniela Penniman
P.O. Box 240293
Honolulu, Hawaii 96824

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Penniman:

Thank you for letter dated February 23, 2007 regarding the Lā'au Point Draft Environmental Impact Statement (EIS). Below, we respond to your comments.

Coastal Waters

We acknowledge your concerns. We first note that your reference to "the wide reef that fringes the southern shore of Molokai" refers to the shore east of Hale O Lono Harbor, and does not include Lā'au Point; there are no fishponds at Lā'au Point.

A Shoreline Access Management Plan (SAMP), which will be managed and enforced by the Molokai Land Trust, provides mitigation measures and a monitoring program for the monk seals, as well as other natural resources. The National Oceanic Atmospheric Administration (NOAA) National Marine Fisheries Service provided consultation and recommendations, which were incorporated into the SAMP. The SAMP will be appended to the Final EIS.

As discussed in Section 4-9.1 (Drainage) of the Draft EIS, Lā'au Point will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream Conservation District land's marine environment and nearshore and offshore water quality.

Cultural Significance

We acknowledge your comments about Lā'au Point's cultural significance. Appendix F of the Draft EIS contains the full Cultural Impact Assessment, which addressed your comments.

Rural Lifestyle

We acknowledge your comment about the project affecting the rural lifestyle. This concern was previously discussed in Section 4-8.3 (Community Character) and Appendix M (Social Impact Assessment) of the Draft EIS.

Thank you for participating in the EIS process. Your letter will be included in the Final EIS.



January 16, 2007

Ms. Rachelle Kipau
P.O. Box 528
Hooletua, Hawaii 96729

SUBJECT: Lā'au Point Draft Environmental Impact Statement (EIS) Public Comment Period

Dear Ms. Kipau:

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
General Manager of Community Affairs
Molokai Properties Limited

cc: Anthony Ching, State Land Use Commission
Genevieve Salmonson, Office of Environmental Quality Control

Aloha,

As a community (Molokai) member who has
many concerns about the Lā'au Point Development,
we are asking for a 60 day extension so
we can better understand the EIS for Lā'au Point
drafted by Peter Nielson - Molokai Properties Limited.

Mamane

Shirley K. Kipau
P.O. Box 528 Hooletua HI 96729
Case #

RECEIVED

FEB 21 2007

PBR HAWAII

To whom it may concern:

Hello my name is Raina Awapuhikeokeo Puaoli I am 16 years old, I currently live in the town of Maunaloa and I am a Moloka'i born and raised child. I am currently attending Moloka'i High School and I am in an environmental science class and doing this as an assignment, though this is based on an assignment I mean every word of it.

Over the years in my short but very productive life I've seen Molokai go through a lot of changes like new stores coming up, houses coming up all over the island, and stuff like that but if this plan goes through this will be the biggest change I have ever seen but not only the biggest but the worst change that I have ever seen... I feel this way because if the ranch actually goes through with this plan Molokai will no longer be Molokai instead we will loose Molokai just as we have lost O'ahu and Maui to development.

Molokai is one of the last islands that has a lot of historic properties and historic grounds and sites and stuff, and La'au has the strongest historic purposes to Moloka'i, like get plenty of ancient Hawaiian burial grounds and ancient Hawaiian artifacts and stuff like that, and all of these things are really important to us native Hawaiians we need these things because they are apart of our culture, apart of our past that we so badly need to keep in contact with. I have many questions for you to whom this concerns, how do you expect us the community to go along with this we so willingly? Because we're the one's whose going to suffer from this we loose our land and we get practically nothing out of this because all we get is temporary jobs and land that we already saved and they are already under protection, so we pretty much, just get nothing and loose everything... what about our water? If you let them go through with this plan we the islanders and probably the people who is crazy enough to actually buy the houses and land down there is not going to have any water for them selves either. If they go through with this plan our future generations may not have water for them selves because in order to get

water down there they are going to have to tap into kakalahale well and that is our last remaining source or untouched water if they tap into kakalahale well then we will have a water scare and we may not have our natural water source for our people of Moloka'i. Question: If you allow the ranch to go through with this plan do you feel that they will honor their promises that they have made to us the people of Moloka'i, give us jobs and all the land they've promised?

Question: If they do not use the kakalahale well for water down in La'au for there development plan, then do you think it will make a difference? Because there still going to have to use Moloka'i water and in any way they will help to deplete our water supply.

Question: If the ranch is allowed to go through with there plan then what will they do if the we the people don't agree with that and we all decide to fight it, if we don't get it our way legally then I can guarantee you that we will not give up without a fight, in fact I promise you that we refuse to give up!!! So what is there a plan to stop us if we have to result in this manner?

Question: What about all the ancient Hawaiian artifacts and burial site in La'au?

Question: What about all the native endangered animals? You're taking away there home's and probably cutting off there food supplies by going through with this plan...

Question: What about all the endangered native Hawaiian plants? It is said that La'au holds a very special fern that has been seen only in La'au. And surely there are more endangered Hawaiian plants down in La'au and if they go in with there development then there is a good chance that we will never see these plants ever again...



Sincerely,
Resident of Moloka'i: Raina Awapuhikoeko Puaoi

November 1, 2007

Raina Awapuhikoeko Puaoi
Moloka'i High School
P.O. Box 158
Ho'olehua, Hawai'i 96729

SUBJECT: LĀ'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Ms. Puaoi:

Thank you for your letter regarding the Lā'au Point Draft Environmental Impact Statement (EIS). We respond to your comments.

1. *I have many questions for you to whom this concerns, how do you expect us the community to go along with this plan so willingly? Because we're the one's whose going to suffer from this we loose our land and we get practically nothing out of this because all we get is temporary jobs and land that we already saved and they are already under protection, so we pretty much, just get nothing and lose everything...*

Response: We disagree with your statement that you will "get nothing and pretty much lose everything." First, the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) reflects the efforts and values of hundreds of Moloka'i residents. The process of creating the Master Plan was transparent and open to anyone who was interested in participating. Further, in interviews conducted for the Social Impact Assessment (SIA; Appendix M of the Draft EIS), 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. These are not Molokai Ranch's comments, but input from those who value the Master Plan.

Second, the SIA found that the community's reaction is not a simple "for" versus "against" statistic. While project and Master Plan opponents were the most vocal in expressing their views, the SIA heard from many people who offered their thoughtful and sometimes complex reactions to Lā'au Point and Master Plan. There were pros and cons to both the Master Plan and Lā'au Point, and the complexity of people's reactions was presented in Section 4.4 of the SIA. Input ranged from full support of Lā'au Point and the Master Plan; to conditional acceptance of Lā'au while supporting the Master Plan; to opposition to Lā'au Point while supporting the Master Plan; and to opposition to both Lā'au Point and the Master Plan.

2. *[W]hat about our water? If you let them go through with this plan we the islanders and probably the people who is crazy enough to actually buy the houses and land down there is not going to have any water for them selves either. If they go through with this plan our future generations may not have water for them selves because in order to get water down there they are going to have to tap into Kākalahale well and that is our last remaining source or untouched water if they tap into Kākalahale*

well then we will have a water scare and we may not have our natural water source for our people of Moloka'i.

Response: 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 Lā'au Point development.

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.

When MPL acquired the Molokai Public Utilities water system, inadequate maintenance had resulted in significant system losses amounting to approximately 200,000 gallons per day. MPL has already begun to implement system improvements and anticipates that system losses can be cut in half.

To minimize water demands, MPL will use a number of different strategies. Conservation rates that provide financial incentives to customers to conserve water have already begun to be implemented and its effectiveness has already been manifested. Additionally, covenants on Lā'au Point lots will limit further subdivision of the lots, restrict disturbance of each lot to no more than 30% (approximately ½-acre, require catchment systems for each residence for irrigation use, requiring drip irrigation systems, double flush toilets, and other water conservation devices.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding water issues, Section 4.9.2 (Water) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 4.9.2 (Water)."

3. *Question: If you allow the ranch to go through with this plan do you feel that they will honor their promises that they have made to us the people of Molokai, give us jobs and all the land they've promised?*

Response: We acknowledge your concerns. MPL is firmly committed to the Master Plan and the commitments made in the Master Plan. Master Plan participants were adamant in retaining community control of the donated and easement lands.

4. *Question: If they do not use the Kākalahale well, for water down in La'au for there development plan, then do you think it will make a difference? Because there still going to have to use Moloka'i water and in any way they will help to deplete our water supply.*

Response: Please see our response #2 above. 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.

5. *Question: If the ranch is allowed to go through with there plan then what will they do if the we the people don't agree with that and we all decide to fight it, if we don't get it our way legally then I can guarantee you that we will not give up without a fight in fact I promise you that we refuse to give up!!! So what is there a plan to stop us if we have to result in this manner?*

Response: We acknowledge that not everyone will agree with this project and the Master Plan. 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 participants have made it clear their support through the comprehensive Master Plan document.

In addition, 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 Aupuni Lōkahi-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).

6. *Question: What about all the ancient Hawaiian artifacts and burial site in La'au?*

Response: As discussed in Section 2.3.1 (Protected Areas) of the Draft EIS, the roadways and residential lots avoid cultural and archaeological sites. These sites will be preserved and protected in place by designating the surrounding area of the archaeological site into Cultural Protection Zone and Conservation District. The artifacts, sites, and burials are being protected to a degree that is unprecedented in development projects.

7. *Question: What about all the native endangered animals? You're taking away there home's and probably cutting off there food supplies by going through with this plan...*

Response: Section 3.7 of the Draft EIS discusses impacts and mitigation measures for fauna, including native and endangered species.

8. *Question: What about all the endangered native Hawaiian plants? It is said that La'au holds a very special fern that has been seen only in La'au. And surely there are more endangered Hawaiian plants down in La'au and if they go in with there development then there is a good chance that we will never see these plants ever again.*

Ms. Raina Awapuhikoeko Puaoi
SUBJECT: LA'AU POINT DRAFT ENVIRONMENTAL IMPACT STATEMENT
November 1, 2007
Page 4 of 4

Response: Section 3.6 of the Draft EIS discusses impacts and mitigation measures for flora, including native and endangered species. We confirm that 'ihiihilaaukea has been found around Kamāka'ipō Gulch. This area is proposed to be re-districted into Conservation District and designated a cultural protection zone, which will be owned and managed by the Land Trust.

To reflect the above information in the Final EIS, as well as to address other questions and concerns regarding 'ihiihilaaukea (*Marsilea villosa*), Section 3.6 (Flora) of the Final EIS has been revised as shown on the attachment titled, "Revised Section 3.6 (Flora)."

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

Attachments:
Revised Section 4.9.2 (Water)
Revised Section 3.6 (Flora)

cc: Anthony Ching, State Land Use Commission
Office of Environmental Quality Control
Jeff Hunt, Maui Planning Department
Thomas S. Witten, PBR HAWAII